05/020/06/TN10

POMS

PROGRAM OPERATIONS MANUAL SYSTEM
Part 05
Supplemental Security Income

CHAPTER 020

Benefits and Payments

Subchapter 06
Supplemental Security Income Offset—Effect on Title XVI Payments

This consolidation includes transmittals through TN 10.

U.S. Department of
Health and Human Services
Social Security Administration
Office of Policy
SSA Pub. No. 68-0502006
I.C.N. 993164
May 1989

HE 3.6/5:

READEX FICHE best copy available

Check List of POMS Transmittals Received

TN	Date	Initial	TN	Date	Initial	TN	Date	Initial	TN	Date	Initial
1.			37.			73.			109.		
2.			38.			74.			110.		
3.			39.			75.			111.		
4.			40.			76.			112.		
5.			41.			77.			113.		
6.			42.			78.			114.		
7.			43.			79.			115.		
8.			44.			80.			116.		
9.			45.			81.			117.		
10.			46.			82.			118.		
11.			47.			83.			119.		
12.			48.			84.			120.		
13.			49.			85.			121.		
14.			50.			86.			122.		
15.			51.			87.			123.		
16.			52.			88.			124.		
17.			53.			89.			125.		
18.			54.			90.			126.		
19.			55.			91.			127.		
20.			56.			92.			128.		
21.			57.			93.			129.		
22.			58.			94.			130.		
23.			59.			95.			131.		
24.			60.			96.			132.		
25.			61.			97.			133.		
26.			62.			98.			134.		
27.			63.			99.			135.		
28.			64.			100.			136.		
29.			65.			101.			137.		
30.			66.			102.			138.		
31.			67.			103.			139.		
32.			68.			104.			140.		
33.			69.			105.			141.		
34.			70.			106.			142.		
35.			71.			107.			143.		
36.			72.			108.			144.		

Check List of POMS Transmittals Received

TN	Date	Initial	TN	Date	Initial	TN	Date	Initial	TN	Date	Initial
145.			181.			217.			253.		
146.			182.			218.			254.		
147.			183.			219.			255.		
148.			184.			220.			256.		
149.			185.			221.			257.		
150.			186.			222.			258.		
151.			187.			223.			259.		
152.			188.			224.			260.		
153.			189.			225.			261.		
154.			190.			226.			262.		
155.			191.			227.			263.		
156.			192.			228.			264.		
157.			193.			229.			265.		
158.			194.			230.			266.		
159.			195.			231.			267.		
160.			196.			232.			268.		
161.			197.			233.			269.		
162.			198.			234.			270.		
163.			199.			235.			271.		
164.			200.			236.			272.		
165.			201.			237.			273.		
166.			202.			238.			274.		
167.			203.			239.			275.		
168.			204.			240.			276.		
169.			205.			241.			277.		
170.			206.			242.			278.		
171.			207.			243.			279.		
172.			208.			244.			280.		
173.			209.			245.			281.		
174.			210.			246.			282.		
175.			211.			247.			283.		
176.			212.			248.			284.		
177.			213.			249.			285.		
178.			214.			250.			286.		
179.			215.			251.			287.		
180.			216.			252.			288.		

02006.000 Supplemental Security Income Offset—Effect on Title XVI Payments

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Title II Offset—Effect on Title XVI Payments

NOTE: *The audience for this entire subchapter is as follows: CR, CRT XVI, DC, DRT, FR, OA, OS, RR, SR, TSC-SR, STATE MANUAL USERS*

Act—Section 1127

Regulations 4—Subpart E

02006.001 Introduction

The Social Security Disability Amendments of 1980 include a provision that directs SSA to reduce retroactive title II benefits that are due in a period for which a person received SSI. The intent of Congress was to prevent a person from receiving full SSI and full title II benefits for the same period. If a person had received benefits from both sources when they were due, his SSI checks would have been adjusted for each month. Before this provision became effective, a retroactive title II payment could affect SSI payments only in the quarter in which it was received. By receiving the title II income retroactively, a person could receive more in SSI than if the title II income had been received when due.

The legislation directs SSA to prevent SSI recipients from receiving such windfalls by computing how much of the retroactive title II benefit must be withheld. The legislation applies to title II claims adjudicated July 1, 1981, and later.

This procedure for reducing retroactive title II benefits is the "title II offset." The Deficit Reduction Act of 1984 permits an alternative procedure for preventing windfalls: "title XVI offset." Under title XVI offset, retroactive title II income is counted as if it were paid on time to determine SSI eligibility and payment. This procedure is authorized effective February 1, 1985. This transmittal deals only with the title II offset.

A. The Title II Offset Computation

The offset computation is a comparison between what a person was due from SSI (including federally administered State supplementary payments) and what he would have been due had the title II benefits been paid on time. After we determine the amount of SSI which would not have been due had the title II been paid on time, we offset that amount against the retroactive title II benefits and pay the SSI recipient the remainder. The offset amount is transferred to the U.S. Treasury (if the offset amount included Federal SSI money) and the State(s) (if the offset amount included federally administered State supplementary payments).

Example:

Mr. Aye is paid $714 in SSI for April through June 1981. He has no other income. He subsequently becomes entitled to title II benefits at the monthly rate of $220. The title II month of entitlement (MOE) is March 1981. Had the retroactive title II benefits been received when due, he would have received $660 in unearned income in the June 1981 quarter. He would have had $600 in countable income ($660-$60 general exclusion). He would have been due only $114 in SSI ($714 FBR-$600 countable income). The difference between the SSI he was due ($714) and the SSI he would have been due ($114) is the offset amount: $600. SSI recovers the $600 from the title II retroactive payment (the $600 is returned to the U.S. Treasury).

SSI has made an "offset-recovery." In the above example, SSI paid $714. When the offset was applied, SSI recovered $600 from Mr. Aye. SSI has made, after application of the offset, a net payment of $114 to him. This is the SSI amount that Mr. Aye would have been paid if the title II benefits had been paid on time.

The offset computation is based on SSI computation rules. If the offset is computed for months prior to April 1982, the rules in SI 02002.001 ff. apply; for April 1982 and later months, the rules in SI 02005.001 ff. apply. If the offset is computed for October 1982 or later months, the rules for proration apply (see SI 02005.060 and SI 02005.065). If the offset is computed for January 1984 or later months, the rules for cost-of-living adjustment (COLA) coordination apply (see SI 02005.077-SI 02005.078).

(See GN 02610.035-GN 02610.045 for a discussion of the adjudication of title II claims subject to offset. See GN 02610.050 for a further discussion of the offset computation.)

B. The Offset Period

(See GN 02610.020 for a further discussion of the "offset period.")

1. EFFECTIVE FEBRUARY 1985

The offset period is comprised of all months for which SSI benefits could have been less if the retroactive title II benefits were paid on time.

It begins with the first month in which the retroactive title II benefits were due or the SSI date of eligibility (DOE)—whichever is later. Even though the offset provision began July 1981, the offset period can begin before July 1981.

The offset period generally ends with the second month after the last month in which a retroactive title II benefit was due. Under RMA, the SSI benefit for a month generally is reduced by income received 2 months before. Therefore, the last 2 months of retroactive title II income, if it were paid on time, could have reduced the SSI benefits due 2 months later.

This definition of the end of the offset period was made by Public Law 98-369 (the Deficit Reduction Act of 1984), and applies to offset cases in which retroactive benefits are payable in February 1985 and later. This change in the offset provision eliminates a "2-month loss" that existed in the offset computation previously.

2. BEFORE FEBRUARY 1985

Under the offset provision that was in effect from July 1981 through January 1985, there was a "2-month loss" in the offset computation because the offset provision did not take into account the 2-month delay in using income to compute SSI benefits under RMA. (This discrepancy existed because the offset provision went into effect in July 1981, before RMA went into effect (April 1982).) The old offset provision defined

the end of the offset period as the last month in which retroactive title II income was due, and we could compute an offset amount only for the months in that period.

C. Automation of the Title II Offset Computation and Type "W" Unearned Income

From July 1981 through December 1983, all offset computations were done manually by the FO's or PC's.

Beginning January 1984, most offset computations are performed automatically by the SSI system. (See SM 02106.020 ff. and SM 01320.001 ff. for a full description of automation of the offset computation.) It computes the offset based on title II information it receives from the interface with the MBR or SSA-1719B transmission from the FO. The SSI system computes the title II offset based on type "W" unearned income.

Type "W" unearned income represents the title II income that was due retroactively in an offset period. It is posted as if it had been paid on time, in the months in which it was due. Retroactive title II income that was not due in an offset period is posted as type "A" unearned income and is countable income when received.

Although type "W" unearned income is posted like other unearned income, it does not affect the regular computation of the SSI that was due. It does not cause a person to be underpaid or overpaid SSI. It does not affect the payment history (PMTH) segment and cannot affect any SSI due for months after the offset period. It does not affect Medicaid eligibility for the months in which it is posted.

Not all offset computations are automated. Some types of cases are "permanently excluded" from automation and the FO must compute the offset manually. Other types of cases are "temporarily excluded" from automation and the FO must resolve the exclusion or compute the offset manually. (See SM 01320.220 for a full discussion of exclusions.)

A detailed explanation of the offset provision and how it is applied is in GN 02610.005 ff. Although the title II offset is an adjustment of title II benefits, it has important secondary effects on SSI claims. It amends the general rule for counting title II benefits as income when received (see SI 00830.020). It also changes the way we determine and dispose of SSI overpayments and underpayments for cases that have title II offset involvement.

02006.010 Title II Offset and SSI Posteligibility Changes

A. General

The title II offset amount, the amount that SSI recovers from the retroactive title II benefits, is based on the SSI factors of eligibility (the FBR, State supplement level, income, the DOE, etc.). After the offset has been applied, the FO may discover that the offset was computed based on incorrect SSI data. This means the offset amount may be incorrect.

Usually, we compute overpayments and underpayments by comparing the SSI amount paid and the SSI amount due. When a posteligibility change affects the SSI computation for months in the offset period, or the number of months in the period (a DOE change because of a protective filing statement or "reopening" of a prior SSI claim), the FO must consider the offset that was imposed (the recovery that has been made) and the offset that should have been imposed (the recovery that should have been made based on the change) to make a correct overpayment or underpayment determination. By doing this, the person receives the same total amount of money (SSI plus title II) that he would have received had we paid him the correct SSI and title II initially.

B. Computation of the True Overpayment/ Underpayment

First, subtract the offset amount from the amount of SSI the person was paid. The result is the "net payment" we made to him. The "net payment" takes into consideration the recovery of SSI payments. *(Paid - offset = net payment.)*

Next, compute how much SSI the person would have been due had the title II income been paid on time, based on the correct SSI information. The result (incorporating the posteligibility change and the title II income due in the offset period) is the "net amount due" him. The "net amount due" takes into consideration the SSI payments that should have been recovered. It is the amount otherwise due less the amount that should have been recovered from the title II benefits.

Finally, compute the "true" overpayment or underpayment by subtracting the "net amount due" from the "net payment." If the result is positive, it is the true overpayment. If the result is negative, it is the true underpayment. *(Net payment - net amount due = true overpayment/underpayment.)*

By issuing the true underpayment, or collecting the true overpayment, we leave the person with the total amount of SSI and title II he would have received if we had paid him correctly to begin with. Also, the general fund and the States wind up expending the same amount they would have paid had we done all computations using the correct benefit amounts initially.

C. Procedures

1. PERFORMING THE COMPUTATION; LOCATING INFORMATION FOR THE COMPUTATION

For most cases, the SSI system will compute the true effect of an SSI posteligibility event that affects months in an offset period. It will do this by using the information from the payment history (PMTH) segment (the amount actually paid) and the WCMP segment (the offset amount and the amount that would have been due had the title II income been paid on time).

For some cases, the SSI system cannot compute reliably the true overpayment/ underpayment and the FO must do the computation manually. The FO can determine whether the system can compute the true overpayment or underpayment reliably by referring to

the "windfall indicator" in the "Record Data" segment of the SSI query. SM 01320.605 ff. explains the meaning of each indicator and how to proceed.

For some cases, the FO must refer to manually prepared offset worksheets to know the offset amounts to use in the computation of the true overpayment/underpayment. If the offset computation was done manually, find the offset amounts in block E, line 5 of the SSA-4348-U2 (SSI Offset Worksheet) or refer to the SSA-4346-U2 (SSI Offset Summary). For some cases, the FO must refer to manually prepared worksheets to know the retroactive title II amounts to use in the computation of the true overpayment/underpayment. The FO can find these amounts in block A, line 2 of the SSA-4348-U2 or Section I., item C. of the SSA-4345-U2 (Record of Telecon—SSI Offset Case). You also can find these amounts in the benefit history field of an MBR query, but be aware that the history field shows the months *for* which (not *in* which) the benefits are due.

If unable to locate an offset worksheet in the servicing FO, contact the PC that has the SSI recipient's title II claim to obtain the offset amount information. Request the information from the PSC's by using form SSA-2339-U3 ("Request for Postentitlement Information"). (See GN 02606.020 ff. for instructions for the use and completion of the SSA-2339-U3.) Request the information from the Office of Disability Operations (ODO) either by using the SSA-2339-U3 or by phone. If the request for offset information is made on an SSA-2339-U3, state clearly at the beginning of the request that the title II claim involves title II offset. This notation will assist routing of the request. In all cases where the offset amount is considered in the computation of the overpayment/underpayment (in all cases where a manual computation is required), be sure to record or document the offset amount(s) in the SSI file.

2. DOCUMENTING THE OVERPAYMENT/UNDERPAYMENT

Document the true overpayment or true underpayment on an SSA-8108. Complete all parts of the SSA-8108. Enter the net SSI payment in the right-hand column. Change the column-heading to "was actually paid—less offset-recovery." Enter the net SSI payment due in the left-hand column. Change the column-heading to "should have been paid—less offset recovery." The difference is the correct overpayment or underpayment. Examples of computations and completed worksheets are in SI 02006.020.

3. RETAINING WORKSHEETS AND INPUT DOCUMENTS

For some cases, the FO must make an input to the SSR so it will post the true overpayment or post (and release) the true underpayment. This involves transmission of "action codes" to the CO field of the SSA-1719B. Follow the instructions in SM 01320.605 ff. After transmitting these SSA-1719B's, the servicing FO must retain them with the offset worksheets and SSI queries. (See GN T02610.065 for retention requirements.) If the SSI recipient's servicing FO changes, both the offset worksheets and the SSA-1719B for that claim must be transferred to the new servicing FO.

4. NOTICES

If you have considered the effect of the offset and find that no overpayment or underpayment exists, do not prepare a notice.

If the offset has no effect on the amount of the overpayment/underpayment, prepare a notice as usual. Do not refer to the offset. Follow the instructions in GN 02220.001 ff. for overpayment notices, and CN 00803.010 and CN 00803.015 if there is an underpayment.

If the offset has an effect on the amount of the overpayment/underpayment, prepare a notice which refers to the offset involvement. Follow the instructions in GN 02220.001 ff., CN 00803.010, and CN 00803.015.

State the true overpayment/underpayment (which was determined by considering the effect of the offset) as the overpaid/underpaid amount.

State the months in the period of overpayment/underpayment which are within the offset period.

Explain that to determine the overpayment/underpayment, you considered the amount which was withheld from title II benefits and the amount that should have been withheld.

02006.020 Examples

This section shows how to compute a true overpayment or underpayment manually. It also shows how this overpayment or underpayment can be different from the result of a computation that ignores title II offset involvement. Generally, a manual computation is not necessary. See SM 01320.605 ff. for system instructions.

A. Example: Overpayment, Ignoring Offset, Equals the True Overpayment (Individual; Transitional Computation Cycle)

Mr. Dixon became eligible for SSI effective June 16, 1986. The FBR is $336 and there is no State supplement involvement. He received $50 cash support in June 1986 and none after. He subsequently is awarded childhood disability benefits.

The first month in which he was due a title II benefit was June 1986. He receives the first title II payment in October 1986. Since the last month in which a retroactive title II benefit was due was September, the offset period is June through November. The monthly title II income amount is $120, and the title II offset was applied.

1. OFFSET COMPUTATION

June: He had $30 countable income (CI) in June ($50 - $20 general exclusion), so the unprorated SSI benefit was $306 ($336 FBR - $30 CI) and the prorated benefit was $153.

If he had received the retroactive title II income when due, his CI would have been $150 ($120 title II + $50 cash = $170 - $20 general exclusion), so the unprorated SSI benefit would have been $186 ($336 FBR - $150 CI) and the prorated benefit would have been $93.

The offset amount is $60 ($153 due - $93 would have been due).

July and August: The budget month is June, and there was $30 CI in June. The SSI benefit each month was $306 ($336 FBR - $30 CI).

If he had received the retroactive title II on time, there would have been $150 CI in June and he would have been due $186 SSI each month. The offset amount each month is $120 ($306 due - $186 would have been due).

September, October, and November: For each month, the budget month was 2 months before. There was $0 CI in each budget month (July, August, September). The SSI benefit each month was $336.

If he had received the retroactive title II on time, there would have been $100 CI in each budget month ($120 title II - $20 general exclusion) and he would have been due $236 SSI each month ($336 FBR - $100 CI).

The offset amount each month is $100 ($336 due - $236 would have been due).

Summary:

Mo.	*Offset*
June:	60
July:	120
August:	120
September:	100
October:	100
November:	100

2. RECOMPUTATION

The FO discovers that Mr. Dixon actually received $90 cash support in June 1986.

a. Net Payment

From the SSI paid for June through August 1986, subtract the offset amounts for June through August 1986.

6/86		*7/86*		*8/86*	
$153	Paid	$306	Paid	$306	Paid
-60	Offset	-120	Offset	-120	Offset
$ 93	Net paid	$186	Net paid	$186	Net paid

Mr. Dixon was not actually paid these SSI amounts. The SSI amounts determined in this step represent the SSI he actually was paid less the amount that SSI recovered from Mr. Dixon by imposing the offset.

b. Net Amount Due

Compute the amount he was due for June through August 1986 using the income and benefit rate data based on the posteligibility change to the unearned income, and including the title II income due in each month as unearned income.

Exhibit 1 shows this computation. It shows as unearned income the correct amount of cash support and the title II income due (but not actually received) in each month.

If he had received the retroactive title II on time, he would have had $190 CI in June ($120 title II + $90 cash - $20 general exclusion). The net amount due for June is $73 ($336 FBR - $190 CI = $146, $146 prorated = $73). The net amount due for July and August is $146 (June is the budget month).

c. True Overpayment/Underpayment

Transfer the results from a. and b. to an SSA-8108. (See Exhibit 2.)

Enter the amounts found in a. to the right-hand column. Revise the column-heading to "was actually paid less offset-recovery."

Enter the amounts found in b. to the left-hand column. Revise the column- heading to "should have been paid less offset-recovery."

The difference is the correct overpayment.

6/86		*7/86*		*8/86*	
$93	Net paid	$186	Net paid	$186	Net paid
-73	Net due	-146	Net due	-146	Net due
$20	True O/P	$ 40	True O/P	$ 40	True O/P

d. Summary

The true overpayment is $100, which equals the overpayment that would have existed ignoring offset:

6/86		*7/86*		*8/86*	
$153	Paid	$306	Paid	$306	Paid
-133	Due*	-266	Due	-266	Due
$ 20	O/P ignoring offset	$ 40	O/P ignoring offset	$ 40	O/P ignoring offset

*($90 cash - $20 general exclusion = $70 CI; $336 FBR - $70 CI = $266; $266 prorated = $133)

Exhibit 1

NAME Phil Dixon SSN 234-56-7890

NAME SSN

351 Dug Hill Rd. COMPUTATION MONTH(S) 6/86 7/86 8/86

Other Recently

FEDERAL LIVING ARRANGEMENT CODE(S)	A	A	A	
1. A. SSA, RRB, black lung, and other pensions Enter total	120	120	120	
B. Support (cash or in-kind but not the VTR) Enter total	+ 90	+	+	+
C. Rents, dividends, interest, royalties, misc. Enter total	+	+	+	+
D. Child support less 1/3 Enter result	+	+	+	+
E. Income deemed (other than spouse) Enter result	+	+	+	+
F. Add A. through E. Enter total	210	120	120	
G. $20 general exclusion	-$20.00	-$20.00	-$20.00	-$20.00
H. Subtract G. from F. Enter result	190	100	100	
I. Income based on need (e.g. AFDC, VA pension) Enter total	+	+	+	+
J. Add H. and I. Enter total	190	100	100	
K. Self Support Plan	-	-	-	-
L. Subtract K. from J. UNC Enter result	190	100	100	
2. A. Earned income – wages, NE from SE, etc. Enter total				
B. Student earned income exclusion	-	-	-	-
C. Subtract B. from A. Enter result				
D. Remainder of $20 general exclusion	-	-	-	-
E. Subtract D. from C. Enter result				
F. $65 earned income exclusion	-$65.00	-$65.00	-$65.00	-$65.00
G. Subtract F. from E. Enter result				
H. IRWE Enter result	-	-	-	-
I. Subtract H. from G. Enter result				
J. Divide I. by 2 Enter result				
K. Blind work expenses and remaining self support plan Enter total	-	-	-	-
L. Subtract K. from J. ENC Enter result				
3. VTR (when applicable) VTR				
4. Add 1., 2., 3. Countable Income (CI) Enter total	190	100	100	
5. Federal Eligibility A. Computation month FBR	336	336	336	
B. Enter CI (from 4.) for computation month	-190	-100	-100	-
C. Subtract B. from A. Enter result	146	236	236	
D. Federal Eligibility Code Enter FEC	E	E	E	
E. If FEC is E Enter BMF	0	1	2	
6. Federal Payment Computation A. Budget month	6/86	6/86	6/86	
B. Computation month FBR/FBR Limit	336	336	336	
C. Enter 4. from budget month or from BBIRD	-190	-190	-190	-
D. Subtract C. from B. FAM Enter result	146	146	146	
E. If eligible couple, FAM EACH Enter result				

FORM SSA-4963 (3-82) (ISSUE OLD STOCK) SSI RMA PAYMENT WORKSHEET

COMPUTATION MONTH(S)	6/86	7/86	8/86		
OPTIONAL STATE SUPPLEMENT CODE(S)					
7. Optional Supplement Eligibility A. Computation month State supplement level					
B. Enter income from computation month (see 5.C.)					
C. Compare B. to A. Enter State Eligibility Code Enter SEC					
D. Budget Month Flag if set in 5.E. Enter BMF					
8. Optional Supp. Payment Computation A. Budget month					
B. Computation month State supplemental level					
C. Excess income from 8.D. or 8.E.					
D. Subtract C. from B. OSS Enter result					
E. If eligible couple, OSS EACH Enter result					
9. Proration A. FAM (from 8.D. or E.)	146				
B. Number of Benefit Days	x 15	x	x	x	
C. Multiply A. and B. Enter result	2190				
D. Number of Days in Month	÷ 30	÷	÷	÷	
E. Divide C. by D. Prorated FAM Enter result	73				
F. OSS (from 8.D. or E.)					
G. Multiply F. and B. Enter result					
H. Divide G. by D. Prorated OSS Enter result					
10. Mandatory Supplement Eligibility A. SCI, or FCI (from 4.)					
B. VTR for MSS purposes	+	+	+	+	
C. Amount from 5.C. (Enter 0 if less than 0)	+	+	+	+	
D. Add A. through C. Enter total					
E. MIL					
F. Compare D. to E. Enter Mandatory Eligibility Code Enter MEC					
11. Mandatory Supp. Payment Computation A. MIL					
B. SCI, or FCI (from 10.A)	+	+	+	+	
C. VTR for MSS purposes (from 10.B)	+	+	+	+	
D. FAM (from 8.D. or E.) (Enter 0 if less than 0)	+	+	+	+	
E. Add B., C., and D. Enter result					
F. Subtract E. from A. MSS Enter result					
12. Total Payment A. OSS or MSS Enter the greater					
B. FAM	+ 73	+ 146	+ 146	+	
C. Add A. and B. TOTAL PAYMENT Enter total	73	146	146		

SIGNATURE: D. Adkins

TITLE: Claims Rep.

DATE: 5/1/87

Exhibit 2

SSI OVERPAYMENT AND DISPOSITION DETERMINATION

PAYMENT STATUS OF CASE: CO'
DATE OF LAST REDETERMINATION: —

NAME OF OVERPAID PERSON: Phil Dixon
SSN: 234-56-7890
NAME OF ELIGIBLE SPOUSE:
SSN:

PART I - OVERPAYMENT DETERMINATION

1. CAUSE OF OVERPAYMENT (Explain)

Mr. Dixon received $90 cash support in June 1986. SSI payments were issued based on only $50 cash support.

2. COMPUTATION OF OVERPAYMENT (If not systems detected)

QUARTER/YEAR	SHOULD HAVE BEEN PAID - - less offset recovery	WAS ACTUALLY PAID - - less offset recovery	DIFFERENCE O/P	DIFFERENCE U/P
Mo. of 6/86	73	93	20	
Mo. of 7/86	146	186	40	
Mo. of 8/86	146	186	40	
		TOTALS:	100	

3. LIST DATES AND AMOUNTS OF ANY REFUND ON THIS OVERPAYMENT MADE TO DATE

4. TOTAL OUTSTANDING OVERPAYMENT	PERIOD OVERPAID MO., YR..	THRU MO., YR..	5. RECIPIENT NOTIFIED ON (DATE)	6. WAS REQUEST FOR RECONSIDERATION FILED?	7. WAS REQUEST FOR WAIVER FILED?
$ 100	6/86	8/86		☐ NO ☐ YES	☐ NO ☐ YES GIVE DATE ____

PART II - DISPOSITION DETERMINATION (FROM PAGE 2 DEVELOPMENT)

1.

☐ WAIVER ☐ REFUND ☐ ADJUSTMENT ☐ SUSPEND COLLECTION

RATIONALE:

2. WAS PENALTY ASSESSED? ☐ NO ☐ YES GIVE AMOUNT ____

3. WAS CASE REFERRED AS POTENTIAL FRAUD? ☐ NO ☐ YES GIVE DATE ____

4. HAVE REPORTING RESPONSIBILITIES NOW BEEN EXPLAINED? ☐ NO ☐ YES

RECOMMENDING SIGNATURE	TITLE	DATE	DISTRICT OFFICE

APPROVING SIGNATURE	TITLE	DATE

FORM SSA-8108 (10-75)

B. Example: Overpayment, Ignoring Offset, Is Greater Than the True Overpayment (Individual; Standard RMA Cycle)

Claire Swift became eligible for SSI beginning January 1986. The FBR is $336 and there is no State supplement involvement. She has no income. She subsequently is awarded title II disability benefits.

The first month in which she was due a title II benefit was February 1986. She receives the first title II payment in September 1986. Since the last month in which a retroactive title II benefit was due was August, the offset period is February through October 1986. The monthly title II income amount is $320, and the title II offset was applied.

1. OFFSET COMPUTATION

February and March: She had no CI, so her SSI benefit was $336 per month.

If she had received the retroactive title II when due, her CI would have been $300 each month ($320 - $20 general exclusion), and she would still have been eligible (because $300 CI would not have exceeded the $336 FBR). January would have been the budget month, there would have been $0 CI in January, and she would have been due $336 SSI for February and March.

The offset amount each month is $0 ($336 due - $336 would have been due).

April through October: For each month, the budget month was 2 months before. There was $0 CI in each budget month. The SSI benefit each month was $336.

If she had received the retroactive title II when due, her CI would have been $300 in each budget month and she would have been due $36 SSI each month ($336 FBR - $300 CI).

The offset amount each month is $300 ($336 due - $36 would have been due).

Summary:

Mo.	*Offset*
February	0
March	0
April - October	300 per month

2. RECOMPUTATION

The FO discovers that Miss Swift was subject to the VTR in March-May 1986.

a. Net Payment

Had Miss Swift received the retroactive title II benefits on time, she would have received $320 in disability benefits in March, April, and May in addition to the VTR in each of these months. She would have been *ineligible* because of excess income for these 3 months.

The true overpayment, caused by Miss Swift's change in income, *is for the period March through May.*

Subtract the offset amount for each month from the SSI paid for each month.

3/86	*4/86*	*5/86*
$336 Paid	$336 Paid	$336 Paid
-300 Offset	-300 Offset	-300 Offset
$ 36 Net paid	$ 36 Net paid	$ 36 Net paid

$36 per month is the net payment to Miss Swift considering the SSI amount that was recovered by applying the offset.

b. Net Amount Due

Compute the amount she was due for March, April, and May using the correct income information, including the title II income due in each month ($320) as unearned income.

3/86	*4/86*	*5/86*
$336 FBR	$336 FBR	$336 FBR
-300 FCI*	-300 FCI	-300 FCI
-112 VTR	-112 VTR	-112 VTR
$ 0 Net due	$ 0 Net due	$ 0 Net due

*($320 title II - $20 general exclusion)

The SSI amounts that result, the net SSI benefits due for these months, are zero. Had the correct income information been known when the offset was computed, the total SSI benefits due for March through May would have been recovered.

c. True Overpayment/Underpayment

Transfer the results found in a. and b. to an SSA-8108.

The amount that "was actually paid—less offset recovery" is $36 per month.

The amount that "should have been paid—less offset recovery" is $0 per month.

The true overpayment period is March through May. The true overpayment is $108.

3/86	4/86	5/86
$36 Net paid	$36 Net paid	$36 Net paid
- 0 Net due	- 0 Net due	- 0 Net due
$36 True O/P	$36 True O/P	$36 True O/P

d. Summary

The true overpayment of $108 is less than the overpayment that would have existed ignoring offset. Ignoring offset, the overpayment period would have been May, June, and July, because the SSI benefits for those months would have been the SSI benefits affected by VTR in March, April, and May. The amount paid was $1008 ($336 × 3), the amount due was $672 ($224 × 3), and the overpayment would have been the difference: $336.

C. Example: Overpayment, Ignoring Offset, Is Less Than the True Overpayment (Individual; Standard RMA Cycle)

Mr. Hendrix became eligible for SSI in 1974. The FBR is $336 and there is no State supplement involvement. He received $75 per month in-kind support and maintenance (ISM) beginning April 1986. He subsequently became entitled to title II widower's benefits.

The first month in which he was due a title II benefit was February 1986. He receives the first title II payment in October 1986. Since the last month in which a retroactive title II benefit was due was September, the offset period is February through November. The monthly title II income amount is $122 and the title II offset was applied.

1. OFFSET COMPUTATION

February and March: He had no CI, so his SSI benefit was $336 per month.

If he had received the retroactive title II when due, his CI would have been $102 per month ($122 - $20 general exclusion) and he still would have been eligible (because $102 CI does not exceed the $336 FBR). The budget month for February would have been December, the budget month for March would have been January, and there would have been $0 CI in each budget month. Therefore, he would have been due $336 SSI for February and March.

The offset amount each month is $0 ($336 due - $336 would have been due).

April and May: For each month the budget month was 2 months before. There was $0 CI in each budget month. The SSI benefit each month was $336.

If he had received the retroactive title II when due, his CI would have been $177 per month ($122 title II + $75 ISM = $177) and he still would have been eligible (because the $177 CI does not exceed the $336 FBR). The budget month for April would have been February, the budget month for May would have been March, and there would have been $102 CI in each budget month. Therefore, he would have been due $234 SSI for April and May ($336 FBR - $102 CI).

The offset amount each month is $102 ($336 due - $234 would have been due).

June through November: For each month, the budget month was 2 months before. There was $55 CI in each budget month. The SSI benefit each month was $281 ($336 FBR - $55 CI).

If he had received the retroactive title II when due, his CI would have been $177 in each budget month and he would have been due $159 SSI each month ($336 FBR - $177 CI).

The offset amount each month is $122 ($281 due - $159 would have been due).

Summary:

Mo.	Offset
February:	0
March:	0
April:	102
May:	102
June - November:	122 per month

2. RECOMPUTATION

The FO learns that Mr. Hendrix earned $245 in February 1986.

a. Net Payment

In the standard retrospective computation, the payment due for a month is based on the income received 2 months earlier. The payment affected by the income received in February is the payment due for April 1986.

Deduct the offset amount for April 1986 from the payment made.

4/86	
$336	Paid
-102	Offset
$234	Net paid

Although he actually was paid $336 SSI, all but $234 was recovered through the offset.

b. Net Amount Due

Compute the amount he was due using the earned income and the $122 title II unearned income due in February 1986.

His countable income in February 1986 would have been $192 ($122 title II - $20 general exclusion = $102 countable unearned income; $245 earned income - $65 exclusion ÷ 2 = $90 countable earned income; $102 + $90 = $192 CI). He would have been eligible because the $192 CI does not exceed the $336 FCI. The CI in February would have affected the SSI for April.

4/86	
$336	FBR
-192	CI
$144	Net due

If the earned income were known when the offset was imposed, all but $144 would have been recovered.

c. True Overpayment/Underpayment

Transfer the amounts found in a. and b. to an SSA-8108.

Considering the recovery which was imposed and the recovery which should have been imposed, an overpayment of $90 exists.

4/86	
$234	Net paid
-144	Net due
$ 90	True O/P

d. Summary

The true overpayment of $90 is more than the overpayment that would have existed ignoring offset.

4/86	
$336	Paid
-256	Due ($245 earned income in 2/86 - $20 general exclusion - $65 ÷ 2 = $80 CI; $336 FBR - $80 CI = $256)
$ 80	O/P ignoring offset

D. Example: Underpayment, Ignoring Offset, Is Less Than the True Underpayment

Mr. Hendrix (in Example C) has refunded the $90 overpayment caused by receipt of earned income. However, further development by the FO establishes that he received no ISM in April and May 1986.

1. OFFSET COMPUTATION

Summary:

Mo.	*Offset*
February:	0
March:	0
April:	102
May:	102
June - November:	122 per month

2. RECOMPUTATION

a. Net Payment

Deduct the offset amounts for June and July from the amounts paid.

6/86		*7/86*	
$281	Paid	$281	Paid
-122	Offset	-122	Offset
$159	Net paid	$159	Net paid

The net SSI payments are $159 for June and July. When the offset was applied, all but those amounts (of the amounts actually paid) were recovered.

b. Net Amount Due

Compute the amount due using no ISM, but using the $122 title II benefits due as unearned income.

6/86		*7/86*	
$336	FBR	$336	FBR
-102	CI	-102	CI
$234	Net due	$234	Net due

Had it been known that ISM did not exist in April and May, all except $234 per month would have been recovered.

c. True Overpayment/Underpayment

Transfer the above amounts to an SSA-8108. The true underpayment, considering the recovery made and the recovery which should have been made, is $150.

6/86		*7/86*	
$159	Net paid	$159	Net paid
-234	Net due	-234	Net due
$ 75	True U/P	$ 75	True U/P

d. Summary

The true underpayment of $150 is greater than the underpayment that would have been computed and released ignoring offset. If we compared the SSI paid with the SSI due ignoring the recovery issue, we would compute only a $110 underpayment:

6/86		*7/86*	
$281	Paid	$281	Paid
-336	Due	-336	Due
$ 55	U/P ignoring offset	$ 55	U/P ignoring offset

E. Example: Underpayment, Ignoring Offset, Is Greater Than the True Underpayment (Couple Case; Pre-RMA Computation)

Daniel and Adrian Montana apply for SSI as a couple in February 1981. Mr. Montana's only income is cash support of $80 per month. Mrs. Montana has no income. The quarterly FBR is $1,071. Mr. Montana is awarded title II disability benefits and he receives the first title II check in July 1981. His title II benefit is $320 per month effective July 1980.

The offset period is February through June 1981. The offset has been computed and applied to the retroactive title II benefits.

1. OFFSET COMPUTATION

February and March: They had $60 CI each month ($80 cash - $20 general exclusion), so the SSI benefit was $297 each month ($357 FBR - $60 CI).

If Mr. Montana had received the retroactive title II income when due, the couple's CI would have been $380 each month ($320 title II + $80 cash - $20 general exclusion = $380 CI), so the SSI benefit would have been $0 each month ($357 FBR - $380 CI = $0).

The offset amount is $297 per month ($297 due - $0 would have been due).

April through June: They had $180 CI in the June 1981 quarter ($80 cash per month × 3 months = $240; $240 - $60 general exclusion = $180), so the SSI benefit was $891 for the quarter ($1071 FBR - $180 CI).

If Mr. Montana had received the retroactive title II on time, there would have been $1140 CI in the quarter ($320 title II × 3 = $960 title II; $80 cash × 3 = $240 cash; $960 + $240 = $1200; $1200 - $60 general exclusion = $1140 CI), so the SSI benefit would have been $0 for the quarter ($1071 FBR - $1140 CI).

The offset amount is $891 ($891 due - $0 would have been due).

Summary:

Mo.	*Offset*
February 1981	297
March 1981	297
April 1981 - June 1981	891

2. RECOMPUTATION

The FO discovers that Mr. Montana received only $40 cash support in February, and no cash support in March through June.

a. Net Payment

Subtract the offset amounts from the SSI payments made.

2/81		*3/81*		*4/81-6/81*	
$297	Paid	$297	Paid	$891	Paid
-297	Offset	-297	Offset	-891	Offset
$ 0	Net paid	$ 0	Net paid	$ 0	Net paid

SSI made a net payment of zero to Mr. and Mrs. Montana for February through June 1981. All the SSI paid was recovered in the offset procedure.

b. Net Amount Due

Compute the amount due for February through June 1981, using the title II unearned income which was due in each month in the offset period.

2/81		*3/81*		*4/81-6/81*	
$357	FBR	$357	FBR	$1071	FBR
-340	CI ($320 title II + $40 cash - $20 general exclusion)	-300	CI ($320 title II - $20 general exclusion)	- 900	CI ($960 title II - $60 general exclusion)
$ 17	Net due	$ 57	Net due	$ 171	Net due

For February 1981, SSI would have recovered all but $17.

For March 1981, SSI would have recovered all but $57.

For the June 1981 quarter, SSI would have recovered all but $171.

These are the SSI amounts due less the offset recovery.

c. True Overpayment/Underpayment

Transfer the amounts determined in steps a. and b. to an SSA-8108. (See Exhibit 3.) The correct underpayment for February through June 1981 is $245.

2/81		*3/81*		*4/81--6/81*	
$ 0	Net paid	$ 0	Net paid	$ 0	Net paid
-17	Net due	-57	Net due	-171	Net due
$17	True U/P	$57	True U/P	$171	True U/P

d. Summary

The true underpayment of $245 is less than the underpayment that would have been computed and released if we ignored offset. We would have considered the amount paid to be $1485 ($297 + $297 + $891), the amount due to be $1765 ($337 + $357 + $1,071), and the underpayment to be the difference: $280.

2/81		*3/81*		*4/81-6/81*	
$297	Paid	$297	Paid	$ 891	Paid
-337	Due ($40 cash - $20 general exclusion = $20 CI; $357 FBR - $20 CI)	-357	Due ($0 CI; $357 FBR - $0 CI)	-1071	Due ($0 CI; $1071 FBR - $0 CI)
$ 40	U/P ignoring offset	$ 60	U/P ignoring offset	$ 180	U/P ignoring offset

Exhibit 3

SSI OVERPAYMENT AND DISPOSITION DETERMINATION ~~overpaid~~ underpaid

PAYMENT STATUS OF CASE: C01

DATE OF LAST REDETERMINATION: -

NAME OF ~~OVERPAID~~ PERSON: Daniel Montana — SSN: 587-89-0123

NAME OF ELIGIBLE SPOUSE: Adrian Montana — SSN: 698-90-1234

PART I - OVERPAYMENT DETERMINATION

1. CAUSE OF ~~OVERPAYMENT~~ (Explain) underpayment

Mr. Montana had $40 cash support in 2/81, no cash support 3/81-6/81.

2. COMPUTATION OF OVERPAYMENT (If not systems detected)

QUARTER/YEAR	SHOULD HAVE BEEN PAID - - less offset recovery	WAS ACTUALLY PAID - - less offset recovery	DIFFERENCE O/P	DIFFERENCE U/P
Mo. of 2/81	17	0		17
Mo. of 3/81	57	0		57
2nd Qtr 1981	171	0		171
			TOTALS	245

3. LIST DATES AND AMOUNTS OF ANY REFUND ON THIS OVERPAYMENT MADE TO DATE

underpaid

4. TOTAL OUTSTANDING ~~OVERPAYMENT~~ underpayment	PERIOD ~~OVERPAID~~ MO., YR.,	THRU MO., YR.,	5. RECIPIENT NOTIFIED ON (DATE)	6. WAS REQUEST FOR RECONSIDERATION FILED?	7. WAS REQUEST FOR WAIVER FILED?
$ 245	2/81	6/81		☐ NO ☐ YES	☐ NO ☐ YES GIVE DATE ____

PART II - DISPOSITION DETERMINATION (FROM PAGE 2 DEVELOPMENT)

1. ☐ WAIVER ☐ REFUND ☐ ADJUSTMENT ☐ SUSPEND COLLECTION

RATIONALE:

2. WAS PENALTY ASSESSED?	3. WAS CASE REFERRED AS POTENTIAL FRAUD?	4. HAVE REPORTING RESPONSIBILITIES NOW BEEN EXPLAINED?
☐ NO ☐ YES GIVE AMOUNT____	☐ NO ☐ YES GIVE DATE____	☐ NO ☐ YES

RECOMMENDING SIGNATURE	TITLE	DATE	DISTRICT OFFICE

APPROVING SIGNATURE	TITLE	DATE

FORM SSA-8108 (10-75)

02006.030 Special Considerations for Title II Offset Computations Under RMA

RMA affects the initial title II offset calculation, the calculation of the true overpayment/underpayment, and the treatment of title II income.

A. Posteligibility Event Affects 1 of the 2 Months Before the Offset Period

An SSI posteligibility event that affects either of the 2 months preceding the offset period requires a computation of the true overpayment/underpayment. This is because a change in either of those months may change the amount of SSI which was due within the offset period.

Example:

The offset period for Mr. Carter is January through March 1986. In August 1986, the FO discovers that he had earned income in November 1985. Although November 1985 is outside the offset period, it may affect the offset computation if November is the budget month for January because January is within the offset period.

B. Posteligibility Event Changes Individual's Eligibility Status for the Month Prior to Offset Period

An SSI posteligibility event that changes the individual's eligibility status for the month prior to the beginning of the offset period requires a computation of the true underpayment/overpayment. This is because such a change alters when the retroactive title II income would have reduced SSI benefits if it had been paid on time.

Example:

Miss Auburn is eligible for SSI beginning September 1985. She has no income but becomes entitled to title II disability benefits. The first month in which she is due a title II benefit is January 1986, and she receives the first title II check in March 1986. The monthly title II income amount is $220. The FBR is $325 in 1985 and $336 in 1986, and there is no State supplement involvement.

The offset period is January through April 1986. The title II offset has been computed and applied.

1. OFFSET COMPUTATION

Since she had no income before she was paid her first title II check in March, and since the title II income in March will not affect SSI until May, she was paid $336 for each month in the offset period.

January 1986: The budget month is November. Had the title II been paid on time, she would not have been paid any title II in November.

$336 FBR
- 0 CI in November

$336 Amount due had title II been paid on time
$336 Amount due
$ 0 Offset amount for January

February 1986: The budget month is December. Had the title II been paid on time, she would not have been paid any title II in December.

$336 FBR
- 0 CI in December

$336 Amount due had title II been paid on time
$336 Amount due
$ 0 Offset amount for February

March 1986: The budget month is January. Had the title II been paid on time, she would have been paid $220 title II in January.

$336 FBR
-200 CI in January ($220 title II - $20)

$136 Amount due had title II been paid on time
$336 Amount due
$200 Offset amount for March

April 1986: The budget month is February. Had the title II been paid on time, she would have been paid $220 title II in February.

$336 FBR
-200 CI in February ($220 title II - $20)

$136 Amount due had title II been paid on time
$336 Amount due
$200 Offset amount for April

Summary:

Mo.	*Offset*
January	0
February	0
March	200
April	200

2. RECOMPUTATION

A redetermination establishes that she received an $820 gift in December 1985.

a. Net Payment

From the SSI paid for each month, subtract the offset for each month.

12/85	*1/86*	*2/86*
$325 Paid	$336 Paid	$336 Paid
- 0 Offset (12/85 is not in the offset period)	- 0 Offset	- 0 Offset
$325 Net paid	$336 Net paid	$336 Net paid

3/86		*4/86*	
$336	Paid	$336	Paid
-200	Offset	-200	Offset
$136	Net paid	$136	Net paid

b. Net Amount Due

12/85		*1/86*		*2/86*	
$325	FBR	$336	FBR	$336	FBR
-800	CI in 12/85 ($820 - 20 general exclusion)	-200	CI in 1/86 (1/86 is the budget month because of ineligibility in 12/85; $220 title II - 20 general exclusion)	-200	CI in 1/86
$ 0	Net due	$136	Net due	$136	Net due

March and April 1986 are not affected by the change in December 1985. Their budget months are still January and February, respectively.

c. True Overpayment/Underpayment

The true overpayment resulting from the $820 gift in December 1985 is $725 ($325 for December, $200 for January, and $200 for February).

12/85		*1/86*		*2/86*	
$325	Net paid	$336	Net paid	$336	Net paid
- 0	Net due	-136	Net due	-136	Net due
$325	True O/P	$200	True O/P	$200	True O/P

Document the true overpayment on an SSA-8108.

d. Summary

In the offset computation (1. above), there was no offset imposed for January and February 1986. This was because we thought the budget month for January was November, and we thought the budget month for February was December, and no title II income was due in either budget month. The SSI posteligibility change, a finding of SSI ineligibility for December, makes January the budget month for January and February, and means there should have been offsets for January and February.

The recomputation takes into account the offset that was imposed (in the NET PAYMENT step) and the offset that should have been imposed based on the posteligibility change (in the NET AMOUNT DUE step).

The true overpayment of $725 is more than the overpayment that would have existed ignoring offset. Ignoring offset, the overpayment would be only $325 for December:

12/85		*1/86*		*2/86*	
$325	Paid	$336	Paid	$336	Paid
- 0	Due	-336	Due (1/86 budget mo.; $0 CI in 1/86)	-336	Due (1/86 budget mo.; $0 CI in 1/86)
$325	O/P ignoring offset	$ 0	O/P ignoring offset	$ 0	O/P ignoring offset

C. Offset Amount Is Zero

Under RMA, it is possible for an individual to be subject to the offset but for the offset amount to be zero. This will occur when the retroactive title II period is only 1 or 2 months, the standard 2-month retrospective computation applies, and the individual is ineligible after the last month of the retroactive period. (See the example in GN 02610.026 C.)

If the offset amount was zero for all months, and an SSI posteligibility event would have produced a positive offset amount, follow the instructions in SI 02006.010. Two events that could change a zero offset to a positive offset are an increase in income received in the retroactive title II period (if the increased income plus the title II in the period would have caused ineligibility), and a lengthening of the offset period (a change in the DOE).

As explained in GN 02610.026 C., the retroactive title II income due in the offset period in a zero offset case is not countable income when received. This rule went into effect in July 1985. Before that, the retroactive title II was countable income when received.

If an SSI posteligibility event would have changed a "zero offset" case to a "positive offset" case, and if the retroactive title II income was counted when received under the old rule, remove from the SSR the amount of the retroactive title II benefit that now should not be counted when received (the retroactive title II that was due in the offset period).

D. Individual Due More SSI If the Title II Had Been Paid When Due (Negative Offset)

Under RMA, it is possible that an individual would have been due more SSI for some (or all) months in the offset period if the retroactive title II had been paid on time. No underpayment is due the individual for these months because an underpayment must be based on the income actually received and not based on what would have been received had the title II been paid when due.

For any month for which more SSI would have been due, there is a "negative offset amount." If the offset amount for the entire offset period is negative (i.e., the individual would have been due more SSI for all months had the title II been paid on time), the offset amount is zero (see C. above); each month has a zero offset amount. If there is a positive amount for some months and a negative amount for other months, combine the negative amounts and the positive amounts to determine the offset amount. If the negative amounts exceed the positive amounts, the offset amount is zero (see C. above); each month has a zero offset amount. If the positive amounts exceed the negative amounts, the difference between the positive amounts and the negative amounts is the offset amount for the offset period.

To find the net payment for a month when there is a negative offset, add the negative offset to the actual SSI payment. To find the net amount due, calculate the SSI which would have been due based on the posteligibility change if the title II income due in the offset period had been paid on time.

Example:

Mr. Larimer became eligible for SSI effective May 1, 1986. He had cash support income of $150 in May, $240 in June, and $0 after. The FBR is $336.

He becomes entitled to title II benefits, and the first month in which he was due title II income was May 1986. He receives his first title II payment in July 1986. The offset period is May through August 1986, the monthly title II amount is $145, and the title II offset has been computed and applied.

1. OFFSET COMPUTATION

May: He had $130 CI ($150 - 20 general exclusion), so he was due $206 SSI ($336 FBR - 130 CI).

If he had received the retroactive title II on time, his CI would have been $275 ($145 title II + $150 cash support = $295; $295 - 20 general exclusion = $275), so he would have been due $61 SSI ($336 FBR - 275 CI).

The offset amount is $145 ($206 due - $61 would have been due).

June: He had $220 CI ($240 cash support - 20 general exclusion) and was eligible because $220 CI does not exceed the $336 FBR. The budget month was May, there was $130 CI in May, so he was due $206 SSI.

If he had received the retroactive title II on time, his CI would have been $365 ($145 title II + $240 cash support = $385; $385 - 20 general exclusion = $365). He would have been ineligible because $365 CI exceeds the $336 FBR.

The offset amount is $206 ($206 due - $0 would have been due).

July: He had $125 CI ($145 title II - 20 general exclusion) and was eligible. The budget month was May, there was $130 CI in May, so he was due $206 SSI.

If he had received the retroactive title II on time, he would have been ineligible in June and the budget month for July would have been July. He had $125 CI in July and would have been due $211 SSI ($336 FBR - 125 CI).

The offset amount is $-5 ($206 due - $211 would have been due).

August: He had $125 CI, and was eligible. The budget month was June, there was $220 CI in June, so he was due $116 SSI ($336 FBR - 220 CI).

If he had received the retroactive title II on time, he would have been ineligible for SSI in June and the budget month would have been July. He had $125 CI in July and would have been due $211 SSI.

The offset amount is $-95 ($116 due - $211 would have been due).

Summary:

Mo.	***Offset***
May	$145
June	$206
July	$-5
August	$-95

2. RECOMPUTATION

The FO determines later that Mr. Larimer received no cash support income.

a. Net Payment

From the SSI paid for May through August, subtract the offset amounts for those months.

5/86	***6/86***	***7/86***	***8/86***
$206 Paid	$206 Paid	$206 Paid	$116 Paid
-145 Offset	-206 Offset	-(-)5 Offset	-(-)95 Offset
$ 61 Net paid	$ 0 Net paid	$211 Net paid	$211 Net paid

b. Net Amount Due

Compute how much Mr. Larimer would have been due if the title II were paid when due, considering that he received no cash support.

5/86	***6/86***	***7/86***	***8/86***
$336 FBR	$336 FBR	$336 FBR	$336 FBR
-125 CI in 5/86 ($145 title II - 20 general exclusion)	-125 CI in 5/86	-125 CI in 5/86	-125 CI in 6/86
$211 Net due	$211 Net due	$211 Net due	$211 Net due

c. True Overpayment/Underpayment

The true U/P is $361:

5/86	
$ 61	Net paid
-211	Net due
$150	True U/P

6/86		*7/86*		*8/86*	
$ 0	Net paid	$211	Net paid	$211	Net paid
$211	Net due	-211	Net due	-211	Net due
$211	True U/P	$ 0	True U/P	$ 0	True U/P

d. Summary

The underpayment would have been greater if we ignored the offset. There would be no CI to consider.

5/86		*6/86*		*7/86*		*8/86*	
$206	Paid	$206	Paid	$206	Paid	$116	Paid
-336	Due ($0 CI in 5/86)	-336	Due ($0 CI in 5/86)	-336	Due ($0 CI in 5/86)	-336	Due ($0 CI in 6/86)
$130	U/P ignoring offset	$130	U/P ignoring offset	$130	U/P ignoring offset	$220	U/P ignoring offset

02006.040 Erroneous Release of Retroactive Title II Benefits and Correcting Title II Income on the SSR

A. Background

(See GN 02610.065)

In the course of its routine activities, the FO may identify a case for whichfull retroactive title II and SSI benefits were issued erroneously. The FO then must determine if title II offset was not, but should have been, imposed. (See GN 02610.005 ff. for the title II offset criteria.) If title II offset should have been imposed but was not, the offset amount is a title II overpayment. The FO must determine the amount of the retroactive title II payment that, for SSI purposes, is not countable income when received. (See SI 00830.020 and SI 02006.030 for a further discussion of how title II benefits are counted.)

(In most cases, if an SSI recipient receives a retroactive title II payment in July 1981 or later, title II offset does not apply or the retroactive payment represents benefits due after application of the offset. However, the retroactive title II payment *may* have been made because title II offset was not applied but should have been. The SSI system generates an alert to the FO whenever an SSI recipient receives a title II payment greater than $1,500 (see SM 02001.312). The receipt of a retroactive title II payment also is brought to the attention of the FO by overpayment diaries which the system establishes (see SM 01310.380 ff.).)

B. Applying the Title II Offset and Correcting Title II Income on the SSR

If title II offset should have been applied, the title II offset must be computed as if the retroactive title II income payable in the offset period had not been received. Remove from the SSR the amount of the title II retroactive benefit which should not have been considered countable income when received (the retroactive title II income due in the offset period). Trigger an automated offset computation per SM 01320.200. Advise the PC of the offset amount.

If you cannot determine that the conditions for title II offset are met without contacting the PC, refer the case to the PC using a Report of Contact (SSA-5002). Briefly describe the nature of the referral on the report. Attach to the Report of Contact a current MBR query and a current SSI query. Request the PC to contact the FO for the offset computation.

C. Example

Mr. Hutchins applies for SSI and title II benefits in April 1986. Before receiving any title II income, he receives SSI for April and May 1986.

In June 1986, he receives a retroactive title II benefit of $800. This represents the title II benefits that, if they were paid on time, would have been paid in March through June at $200 per month. The $800 is on the SSR as income in June.

The conditions for title II offset are met. The offset period is April through August because the first regular monthly title II check was received in July.

Remove from the SSR the retroactive title II income payable in the offset period ($600; $200 per month due in April, May, and June). The only title II income countable in June is now $200. This is the $200 title II income that was due in March, because March is not in the offset period. Advise the PC of the offset amount.

02006.100 Excluding Title II Offset Cases from the Underpayment Review Process

A. Background

Under the title II offset procedure, when an SSI recipient becomes entitled to retroactive title II benefits, we reduce the retroactive title II by the amount of SSI that would not have been due had the title II been paid on time. Any remainder is issued to the SSI recipient. For most cases, the title II offset amount is computed by the SSI system. The remaining cases are computed by the FO's.

The FO generally must conduct a prepayment review of an SSI underpayment if the underpayment equals or exceeds a "review threshold" (currently, $2,000). The FO generally authorizes release of the prospective SSI benefits and the underpayment at the same time. However, the FO can decide to release prospective benefits and delay release of the underpayment. Some of these cases will be subject to the title II offset because these prospective SSI benefits were paid in the offset period. The offset of the retroactive title II benefits is not done until the review is completed and any underpayment is released. By excluding certain title II offset cases from review, we speed up the issuance of SSI and thereby speed up the issuance of the retroactive title II.

See GN 02610.005 ff. for an explanation of the criteria for title II offset.

See GN 02325.050 ff. for an explanation of the underpayment review process.

See SM 01320.005 ff. for an explanation of the system's processing of offset cases.

B. Exclusion Policy

If a case with a large SSI underpayment is a title II offset case, we can recover all or part of that SSI money. The underpayment in a title II offset case is only "at risk" to the extent that it exceeds the title II offset amount. For example, the FO has determined a case has a $5,000 underpayment. If we can recover all of the $5,000 through the title II offset procedure, no SSI money is at risk. Since no money is at risk, there is no need for a prepayment review.

Whether to exclude a case from review is determined by comparing the amount at risk and the review threshold.

The first part of the exclusion policy is to exclude cases for which there is no risk (the title II offset amount equals or exceeds the underpayment). The second part of the exclusion policy is to exclude cases for which the risk is below the "review threshold." For example, the FO has determined a case has a $5,000 SSI underpayment. If we can recover $4,000 through the title II offset procedure, only $1,000 is at risk. Since $1,000 is below the review threshold, we will exclude it from review.

The "risk" involved is the risk of an overpayment that we accept by eliminating the review. The amount "at risk" is the underpayment minus the potential title II offset for the underpaid months. Do not determine the amount "at risk" by subtracting the title II monthly income amounts from the underpayment. The potential offset amount (the amount we recover) is what reduces the risk, not the title II monthly income amounts. Also, do not determine the amount "at risk" by subtracting the potential offset for the entire offset period from the underpayment. Any offset amount for months not in the underpayment period cannot reduce the risk in issuing the underpayment. (Example 4 in E. below shows why these alternative formulas are wrong.)

Exclusion of a case from underpayment review does not remove the underpayment period from subsequent review and correction by the FO. For example, the FO must review that period during the next redetermination under the rules and selection criteria in SI 02305.001 ff. There are two reasons for this: (1) the FO may discover that the amount at risk is in fact an overpaid amount; or (2) an additional underpayment may exist. (When we exclude an underpayment from review, it is because we determine that the amount at risk is low. The "risk" is the risk of an overpayment which we accept by eliminating the review. However, by removing the case from review, we prevent the detection of a possible additional underpayment.) If the FO discovers that any of the SSI computation factors used to compute the underpayment and the title II offset amount are incorrect, it must compute the true overpayment or underpayment under the rules in SI 02006.010.

C. Exclusion Procedure

The FO will determine if a case should be excluded from review as part of its role in the title II offset procedure.

The SSI system does not complete the title II offset computation while an underpayment is under review. When a case is under review, and SSI benefits are issued prospectively while SSI benefits for prior months are withheld, the system posts underpayments for the prior months. When there are underpayments posted, the system temporarily excludes the case from an automated title II offset computation. The system is able to perform the title II offset computation when the underpayment is released.

If there is an interface of title II offset information to the supplemental security record (SSR) of the underpaid recipient, the SSI system sends a reject query to the FO. The query includes the underpayment diary, the period to which title II offset applies, and a monthly breakdown of the retroactive title II income (as if it were paid on time). The FO will compare the underpayment to the potential offset amount for the months in the underpayment period. If the amount at risk is below the review threshold, the FO will cease its review and release the underpayment. After the underpayment is released, the FO will trigger the system's title II offset computation.

If there is no interface of title II offset information to the SSR, the processing center calls the FO and gives it offset information. The FO transmits the title II offset information to the SSR. The SSI system sends a reject query to the FO. The FO will compare the underpayment to the potential offset amount for the months in the underpayment period. If the amount at

risk is below $2,000, it will release the underpayment. After the underpayment is released, the FO will trigger the system's title II offset computation.

D. Overview of Procedure

This procedure yields benefits to the recipient more quickly, thereby serving his interest and our own interest in timely payment. It requires the FO to make the underpayment versus title II offset comparison. For every case the FO excludes under this procedure, it does not have to do the prepayment review of eligibility, payment, and documentation.

The intent of this procedure is not to burden the FO with a long or complex computation. For many cases, the FO can determine that there is no money at risk, or that the risk is low, without completing a worksheet. For these cases, place an SSA-5002, Report of Contact, in the file stating why the case is being excluded from review. Otherwise, complete a worksheet and place it in file.

E. Examples

Example 1:

Case excluded from review because the amount at risk is zero.

a. SSI Payment Computation

Mr. Wolff applies for SSI and title II benefits February 17, 1987. He has no income. The Federal benefit rate (FBR) is $340. The optional State supplement (OSS) level is $121. The medical allowance is received and nondisability development is completed in October 1987.

Based on the FO's development, Mr. Wolff is due an underpayment of $3,885.58 for February through October.

February: The underpayment is $197.58

$\frac{\$340 \times 12 \text{ benefit days}}{28 \text{ days in month}}$ = $145.72 Federal SSI underpayment

$\frac{\$121 \times 12 \text{ benefit days}}{28 \text{ days in month}}$ = $51.86 OSS underpayment

March through October: The underpayment is $3,688

$340 Federal SSI + $121 OSS = $461 × 8 Months = $3,688.

Since the underpayment is at least $2,000, it is subject to prepayment review. The FO decides to issue SSI benefits prospectively and withhold the underpayment pending completion of its review. Mr. Wolff receives the $461 he is due in November and December 1987.

b. Offset Information

In January 1988, Mr. Wolff received his first title II benefit of $520. He was due $520 monthly title II income in February through December 1987. The retroactive title II is not paid until the SSI underpayment is resolved.

c. Risk Determination

February: The FO computed Mr. Wolff's SSI benefit to be $197.58. If the $520 title II income due in February were paid in February, he would have been due $0 SSI. The offset amount would be $197.58. The amount at risk is $0.

$197.58 Underpayment
-197.58 Potential offset
$ 0 At risk

March through October: The FO computed Mr. Wolff's SSI benefit to be $461 per month. If the $520 title II income due each month were paid when due, he would have been due $0 SSI. The offset amount would be $461 per month. The amount at risk is $0.

$461 Underpayment per month
-461 Potential offset per month
$ 0 At risk

d. Summary

$3,885.58 Underpayment
-3,885.58 Potential offset ($197.58 for February, $3,688 for March through October)
0 At risk

Since there is no risk of an overpayment, a review is not required. Release the underpayment, then trigger the offset computation.

Example 2:

Case excluded from review because the amount at risk is below the threshold.

a. SSI Payment Computation

Mr. King applies for SSI and title II benefits January 16, 1987. He has no income. The FBR is $340. The OSS level is $60. The medical allowance is received and nondisability development is completed in June 1987.

Based on the FO's development, Mr. King is due an underpayment of $2,206.46 for January through June.

January: The underpayment is $206.46

$\frac{\$340 \times 16 \text{ benefit days}}{31 \text{ days in month}}$ = $175.49 Federal SSI underpayment

$\frac{\$60 \times 16 \text{ benefit days}}{31 \text{ days in month}}$ = $30.97 OSS underpayment

February through June: The underpayment is $2,000.

$340 Federal SSI + $60 OSS = $400 × 5 months = $2,000

Since the underpayment is at least $2,000, it is subject to prepayment review. The FO decides to issue SSI benefits prospectively and withhold the underpayment pending completion of its review. Mr. King receives the $400 per month SSI he is due beginning July 1987.

b. Offset Information

In August 1987, Mr. King gets his first title II benefit of $320. He was due $320 title II income each month in January through July 1987. The retroactive title II is not paid until the SSI underpayment is resolved.

c. Risk Determination

January: The FO computed Mr. King's SSI benefit to be $206.46. If the $320 title II income due in January were paid in January, he would have been due $51.62 SSI:

$340 FBR

-300 CI ($320 title II - $20 general exclusion)
$ 40 *Unprorated Federal benefit*

$60 Unprorated OSS (there is no excess income)

$40 × 16 benefit days / 31 days in month = $20.65 Prorated Federal benefit

$60 OSS × 16 benefit days / 31 days in month = $30.97 Prorated OSS

The offset amount would be $154.84 ($206.46 SSI due - $51.62 SSI that would have been due). The amount at risk is $51.62.

$206.46 Underpayment
-154.84 Potential offset
$ 51.62 At risk

February through June: The FO computed Mr. King's SSI benefit to be $400 per month. If the $320 title II income due each month were paid when due, he would have been due $100 SSI. The offset amount would be $300 per month. The amount at risk is $100 per month.

$400 Underpayment per month
-300 Potential offset per month
$100 At risk per month

d. Summary

$2,206.46 Underpayment
-1,654.84 Potential offset ($154.84 for January + $1,500 for February through June)
$ 551.62 At risk

$551.62 is below the review threshold of $2,000. Therefore, release the underpayment, then trigger the offset computation.

Example 3:

Case not excluded from review because the amount at risk is above the threshold.

a. SSI Payment Computation

Mr. Chapman applies for SSI and title II benefits February 1, 1987. He has no income. The FBR is $340. The OSS level is $60.

Based on the FO's development, Mr. Chapman is due an underpayment of $4,000 for February through November ($400 × 10 months).

Since the SSI underpayment is at least $2,000, it is subject to prepayment review. The FO decides to issue SSI benefits prospectively and withhold the underpayment pending completion of its review. Mr. Chapman receives the $400 SSI he is due in December 1987.

b. Offset Information

In January 1988, Mr. Chapman gets his first title II benefit of $120. He was due $120 per month title II income in April through December 1987. The retroactive title II is not paid until the SSI underpayment is resolved.

c. Risk Determination

February: The FO computed Mr. Chapman's SSI benefit to be $400. If the retroactive title II income were paid on time, it would have started in April. There is no potential offset amount for February. The amount at risk is $400.

March: The FO computed Mr. Chapman's SSI benefit to be $400. If the retroactive title II income were paid on time, it would have started in April. There is no potential offset amount for March. The amount at risk is $400.

April: The FO computed Mr. Chapman's SSI benefit to be $400. If the retroactive title II income were paid on time, he would have had $100 countable income ($120 title II - $20 general exclusion) and been eligible for SSI. February would be the budget month. Since there would have been no countable income in February, he would have been due $400 SSI. There is no potential offset amount for April. The amount at risk is $400.

May: The FO computed Mr. Chapman's SSI benefit to be $400. If the retroactive title II income were paid on time, he would have had $100 countable income ($120 title II - $20 general exclusion) and been eligible. March would be the budget month. Since there would have been no countable income in March, he would have been due $400 SSI. There is no potential offset amount for May. The amount at risk is $400.

June through November: The FO computed Mr. Chapman's SSI benefit to be $400 per month. If the $120 title II income due each month were paid on time, he would have been eligible and due $300 SSI. The offset amount would be $100. The amount at risk is $300 per month.

$400 Underpayment per month
-100 Potential offset per month
$300 At risk per month

d. Summary

$4,000 Underpayment
- 600 Potential offset ($0 for February through May, $100 each month for June through November)
$3,400 At risk

Since the amount at risk is above the threshold, the underpayment is subject to review.

Example 4:

Case not excluded from review because the amount at risk is above the threshold.

a. SSI Payment Computation

Mr. Adams applies for SSI and title II benefits April 26, 1987. He has no income. The FBR is $340. The OSS level is $85.

Based on the FO's development, Mr. Adams is due an underpayment of $2,620.84 SSI for April through October.

April: The underpayment is $70.84

$340 × 5 benefit days / 30 days in month = $56.67 Federal SSI underpayment

$85 × 5 benefit days / 30 days in month = $14.17 OSS underpayment

May through October: The underpayment is $2,550.

$340 Federal SSI + $85 OSS = $425 × 6 months = $2,550

Since the underpayment is at least $2,000, it is subject to prepayment review. The FO decides to issue SSI benefits prospectively and withhold the underpayment pending completion of its review. Mr. Adams receives the $425 SSI per month that he is due in November and December 1987.

b. Offset Information

In January 1988, Mr. Adams gets his first title II benefit of $650. He was due $650 per month title II income in October through December 1987. The retroactive title II is not paid until the SSI underpayment is resolved.

c. Risk Determination

April: The FO computed Mr. Adams' SSI benefit to be $70.84. If the retroactive title II income were paid on time, it would have started in October. There is no potential offset amount for April. The amount at risk is $70.84.

May through September: The FO computed Mr. Adams' SSI benefit to be $425 per month. If the retroactive title II income were paid on time, it would have started in October. There is no potential offset amount for May through September. The amount at risk is $425 per month or $2,125 for the 5-month period.

October: The FO computed Mr. Adams' SSI benefit to be $425. If the $650 title II income due in October were paid on time, he would have been ineligible and due $0 SSI. The offset amount would be $425. The amount at risk is $0.

$425	Underpayment
-425	Potential offset
0	At risk

d. Summary

$2,620.84	Underpayment
- 425.00	Potential offset ($0 April through September, $425 for October)
$2,195.84	At risk

Since the amount at risk is above the threshold, the underpayment is subject to review.

e. Why Risk Determination is Restricted to Underpaid Months

Note that we compared the underpayment to the potential offset for the underpaid months: April through October. We did not compare the underpayment to the potential offset for the entire offset period. This is because any offset amount for November and December does not reduce the risk involved in issuing the underpayment.

Mr. Adams was due $425 per month SSI for November and for December. If the $650 per month title II income were paid on time, he would have been due $0 SSI. The offset amount for each month is $425. If we included these offset amounts in the exclusion comparison, we would determine the risk to be below the threshold which would be incorrect. The $2,195.84 amount arrived at in d. above is at risk. If we find out subsequent to the offset computation that Mr. Adams had excess resources in April through October, he would be overpaid $2,195.84 under the rules in SI 02006.010:

April:

$70.84	SSI paid
- 0	Amount due
$70.84	Overpayment

May through September:

$425	SSI paid per month
- 0	Amount due
$425	Overpayment per month × 5 months = $2,125 total

October:

$425	SSI paid
-425	Offset
$ 0	Net paid
- 0	Net amount due (based on posteligibility event, had title II been paid on time)
$ 0	(No overpayment or underpayment)

f. Why Risk Determination is Not a Comparison of the Underpayment to the Retroactive Title II

Note that we did not compare the underpayment to the title II income amounts. If we subtract the title II income amounts for October through December, we would determine the risk to be below the $2,000 threshold:

$2,620.84	Underpayment
-1,950.00	Title II income due in October through December ($650 × 3)
$ 670.84	At risk

Even if we only subtracted the title II income amount for the month in the underpayment period, we would determine the risk to be below the $2,000 threshold:

$2,620.84	Underpayment
- 650.00	Title II income due in October
$1,970.84	At risk

Both of these determinations would be incorrect. As shown in e. above, excluding the case from review would risk an overpayment of $2,195.84.

Subtraction of Authorized Fees in Offset Cases

02006.200 Title XVI Offset - Subtraction of Authorized Fees from Title II Retroactive Payments

A. Title II Income to Count If Fees Authorized

I. POLICY REQUIREMENTS

Based on the rules in SI 00830.020 for counting unearned income, we subtract from income received the amount of ordinary and necessary expenses to obtain the income. These rules apply in title XVI offset cases to attorney or nonattorney representative fees (hereinafter referred to as attorney fees) that SSA and/or a court determines apply to obtaining the retroactive title II benefits. SSA determines the amount of the attorney fee or obtains the court determination of such a fee. The title II case file contains the documentation of the SSA or court determination of that expense. These records satisfy the requirements in SI 00830.020 B. to verify and document allowable expenses.

NOTE: *The law provides that if an attorney has rendered services in a title II claim in which SSA has made a favorable decision resulting in past due benefits, then a portion of the past due benefits shall be certified for direct payment to the attorney to satisfy a fee for such services. This does not apply to a representative who is not an attorney. (See GN 03920.070.) To have benefits available for this purpose, SSA withholds no more than 25 percent of the past due (retroactive) title II benefits pending the authorization of an attorney fee. (See GN 03920.075) It is the authorized* fee to an attorney or nonattorney that must be subtracted from title II benefits to determine income for SSI purposes, not amounts withheld from a beneficiary or certified for payment to an attorney.

2. TIMING OF THE AUTHORIZATION OF FEES AND FO ACTION

SSA or a U.S. District Court authorization of an attorney fee requires processing of an attorney's petition for a fee in the Office of Hearings and Appeals (OHA) by an ALJ or the Appeals Council, in the District Court, and/or in a PC or ODO. *Rarely*, the attorney's petition has been processed and the amount of the attorney's fee authorized when the PC or ODO pays the retroactive title II benefits. However, in *most* cases, the attorney's petition is received and begins to be processed within 90 days *after* payment of the retroactive benefits with an amount withheld to be applied toward the fee. The notice for that payment includes notice of the withholding and tends to activate submission of the fee petition. The SSA or court authorization and the PC or ODO processing to pay from the withheld funds occur thereafter.

Historically, in about 70 percent of the title II cases in which there have been attorney fees, the amounts withheld from the retroactive title II benefits have been the amounts that SSA or the court authorized as the attorney fees. However, the authorized fee may not equal the amount withheld. (Since in title II offset cases the amounts withheld are from the title II benefits remaining after the title II offset, the amounts withheld are usually less than the fees authorized because the fees are based on the total past-due title II benefits. See SI 02006.205 for title II offset and attorney fees.) In cases when nonattorneys represent title II claimants, SSA can authorize fees even though it cannot withhold any retroactive title II benefits towards the fees.

Unless the authorized fee amount for an attorney or nonattorney is known at the time that the title II retroactive benefits are paid, FO's will adjust the title II income for the allowable expenses after title XVI offset processing per GN A02610.047 has occurred. When the adjusted title II income requires reopening and revision of the SSI determination (allowance or denial), the result will be an underpayment or a reduction in the amount of an overpayment.

3. SUMMARY OF THE PROCESS IN TITLE XVI OFFSET CASES

To determine the adjusted retroactive title II income less the expense of the authorized fee, identify and control an affected title XVI offset case as explained in B. below. When the FO is informed of the fee authorized by SSA or the court, as explained in C. below, reduce the retroactive title II income by the amount of the fee according to D. below. Then, if the FO decides that the changes affected the prior title XVI offset determination as explained in E. below, reopen the prior SSI determination and enter the adjusted title II income in place of those entries in the "UM" field that were previously entered per GN A02610.047. Follow the procedures in F. below to prepare the required notice.

In those few instances where the fee amount has been authorized and the FO knows the exact amount when it processes the title XVI offset according to GN A02610.047, the FO should abbreviate the procedures in this section, enter only adjusted title II income data with the authorized fee subtracted per D. below in the GN A02610.047 processing, and prepare the required initial determination notice to both the claimant and the representative.

B. Identifying Affected Cases, Case Control, and Notice

I. IDENTIFYING CASES

When the FO decides that title XVI offset applies, review the FO title II records and the SSI case file to see if the individual is represented by an attorney for the title II claim. If not, follow the requirements of GN A02610.047. If the individual has an attorney representative for title II, determine if an amount for an attorney fee will be withheld from the retroactive title II benefits. This information appears in an AACT query as an amount entered in the "LPDA" field. If no amount is withheld, the "LPDA" field will be absent from the query. If the FO does not already have a recent query, one should be obtained to see if there is attorney fee withholding. However, in those cases when the FO decides that title XVI offset applies because the PC or ODO calls as explained in GN A 02610.047 B.2., ask if attorney fees have been withheld. This contact makes it unnecessary to obtain an AACT

query.

NOTE: *Inadvertently, in some attorney fee cases, retroactive title II benefits are paid in full without the required withholding even though attorney fees are later authorized. Or, in some few title XVI offset cases, fees are authorized to a title II representative who is not an attorney, but no retroactive title II benefits can be or are withheld because SSA has no authority to do so for nonattorneys. The FO will first learn of both of these types of cases when the PC or ODO notifies the FO as explained in C. below. In such cases, the FO should follow the instructions in C.-E. below. Also see G. below which describes other title XVI offset cases that will not be identified and controlled before the PC or ODO notification but that also requires adjustment of the title II income according to this section.*

2. CASE CONTROL AND NOTICE

If an amount toward the attorney fee is withheld, process the title XVI offset as required by GN A02610.047 and diary the SSI case pending FO receipt of the authorization of the amount of the title II attorney fee. Set the diary for 90 days after the expected month of payment of the title II retroactive benefits. In addition, in the offset processing, suppress the systems-generated notice so that the FO can prepare the required initial determination notices to both the claimant and the attorney. Include the following paragraphs in each of the notices.

> "*You have monthly income which must be considered in figuring your payment as follows:*
>
> *You* will soon get social security money for past months. When we figure *your* SSI payment, we count this social security money as if we paid it to *you* during each of the months it was due. *You* were due *$$$.00 a month for MM/YY through MM/YY.*
>
> Since a lawyer represents *you* in *your* social security claim, the amounts we used above for *your* social security income may change. When fees to pay your lawyer are approved, we will subtract these fees from *your* social security income for any month, then *you* may get more supplemental security income.
>
> Your local social security office will be told when fees for *your* lawyer are approved, but *you* may be told sooner. Please contact your local social security office when you get the letter about approved legal fees. This may help us decide sooner if *you* should get more supplemental security income. If you go to your office, please bring the letter about the legal fees with you."

When the notice is sent to a representative payee, use the claimant's name and subsequently the appropriate pronouns (she or he) instead of *you, and her or his* instead of *your* where *underlined* above.

In the second paragraph, enter the amount or amounts and the month(s) and year(s) applicable for the retroactive title II benefits due. In the last sentence, if "*you*" is changed, correct "were" to "was."

In the third paragraph, do not use the word "more" in the last sentence if the notice used is SSA-L8030-U2 (SSI Notice of Disapproved Claim). And, also delete the word "more" in the fourth line of the fourth paragraph when that notice is used.

C. Notification to FO of Authorized Fees

1. PC OR ODO NOTIFICATION AND FO EXAMINATION OF NOTICES

The primary source of notification to the FO of authorized fees for an attorney or nonattorney representative is the PC or ODO, whichever has jurisdiction of the title II claim. The PC or ODO receives a copy of Form HA-L530-U5 (Authorization to Charge and Receive a Fee) from OHA. OHA sends the original of the form to the attorney or nonattorney and a copy to the claimant. (See GN 03940.260 E.2.) For court cases, the court notifies the attorney and the PC or ODO notifies the claimant of the court ordered fee via the Notice to Claimant-Court Ordered Attorney Fees (copy to attorney). In those instances that fees are determined by the PC or ODO (for example, for a reconsideration appeal) using SSA-1560A-U5 (Authorization to Charge and Receive a Fee), the PC or ODO notifies the attorney (or nonattorney) and the claimant.

Under revised instructions in GN E03940.350 for title II claims and action when SSI is also involved, the PC's and ODO are required to send a copy of a notice authorizing a fee to the servicing FO. Use this copy from the PC or ODO to complete the processing required by this section.

Check the "type of claim" entry on the notice to be sure it is either a concurrent SSI/title II or solely a title II claim. This can be written out or coded (e.g., SSDC, DIWC, DIWW, etc.) However, if the type of claim is exclusively SSI (i.e., written out or coded SSID, SIA, or SIB), do *not* subtract the fee. It is for services rendered exclusively for an SSI claim.

The amount of the fee for concurrent title II/SSI or solely title II claims to be subtracted is the *entire* amount entered in the notice. Do not refer to or use the attorney's or other representative's petition or any amount in it. Do not use any reference to the SSI (title XVI) aspects of the case in a petition for a concurrent claim as a reason to subtract less than the entire fee. Ignore the amounts withheld or paid from title II benefits by the PSC/ODO or paid or owed by any beneficiaries. These amounts do not affect the amount that must be subtracted.

The person or persons obligated for the fee are the claimant or claimants specifically named in the notice. Subtract the entire amount of the authorized fee from the title II benefits of the named claimant(s) (see D.). Ignore the fact that the PSC/ODO withholds benefits from an auxiliary who is *not* named in the notice to pay some part of the fee. Assume such an auxiliary is not obligated absent evidence to the contrary. This evidence is limited to statements by all of the parties (claimants and representative) that prove the *obligation* is shared by named and unnamed claimants and show the specific amounts of the *authorized fee* owed by each claimant. Do not infer that withholding from auxiliaries or any other fact is evidence that requires the FO to consider or develop who else might be obligated and for how much.

In some cases, further action or review of a prior fee authorization by SSA or a court leads to authorization of a supplemental or additional fee. If the FO has already processed one of the notices, process the notice received later by reopening the adjustment to take into account the total fee. If neither notice has been processed, use the total of the original plus the supplemental fee as the authorized fee that must be subtracted.

2. CLAIMANT OR REPRESENTATIVE CONTACTS THE FO

In some instances, the first notification to the FO of authorized fees is from the representative or claimant who received a notice from OHA, a court, a PC, or ODO. Obtain a copy of the notice or enter all of the information on an RC. Needed information includes the type of claim, the name and address of the representative, the amount of the authorized fee, the title II claim and Social Security numbers involved, and the name of the person(s) obligated. If the claimant or representative who contacts the FO provides incomplete information or the FO has any doubt about the source of the information or any fact, contact the PC or ODO, as appropriate, for clarification. Otherwise, examine and use the copy of the notice as you would a copy received from the PC or ODO.

3. DIARY MATURES

When a diary set per B. above matures but no notification has been received, request the PC or ODO, whichever has jurisdiction, to advise you of the authorized attorney fees in the title II claim via SSA-2339-U3, Request for Postentitlement Information (see GN 02606.020 ff.). Rediary the SSI case for 90 days for a reply. In some instances, authorization of attorney fees is greatly delayed. The PC or ODO should respond to the FO's request as soon as it has the fee authorization or send an interim notice if it has some information to report. If the FO receives no reply within 90 days of its request, send a second request asking for the status of the authorization (see GN 02606.024). Rediary for a reply in 30 days.

D. Adjustment and Correction of Retroactive Title II Income Amounts

SI 00830.020 B. requires that we subtract allowable expenses from the first and subsequent amounts of related income until the expenses are completely exhausted. This may require adjustment of income for more than 1 month.

Following the rules in SI 00830.020 B., determine the first month that any retroactive title II benefits were regularly due and how much they would have been. Apply that amount to exhaust the amount of the authorized fee for the attorney or nonattorney. If an amount of the authorized fee remains, do the same for the second month that any title II benefits were regularly due and for as many months thereafter as necessary to exhaust the amount of the fee. This adjustment may yield a partial amount of income in the last month used. If so, the remaining amount of title II benefits for that month is income to be used as title II income. Once the authorized fee is eliminated, use as title II unearned income the remaining title II benefits in the amounts they were regularly due.

See E.3. below for examples of this adjustment procedure and how to record the results to simplify the reevaluation of title XVI offset cases.

Note that title II income for months prior to the date of eligibility for SSI is only entered as type A income on the SSR for the month it is actually received. See E.2. below which explains SSI status for the month of receipt of retroactive title II benefits.

E. Reevaluation of Title XVI Offset Cases

When title XVI offset occurs, the result is that the title II benefits regularly due for months beginning with the earliest month of possible SSI eligibility are counted as income for those months. This income can prevent SSI eligibility or reduce the amount of SSI payable to a claimant who is otherwise eligible for SSI (Federal and/or federally administered State supplement). Once authorized fees are subtracted from the title II income, the effect, if any, on SSI eligibility and payments must be determined. If additional SSI benefits are due or, for the first time, SSI benefits are payable based on the adjusted title II income, the FO must reopen and revise the prior SSI determination(s). Reevaluate SSI eligibility and payments according to the rules in this subsection.

1. ADJUSTED TITLE II INCOME AND RETROACTIVE MONTHS OF POSSIBLE SSI ELIGIBILITY

The FO must look at those months of possible SSI eligibility based on all factors except income that fall in the period of retroactive title II benefits and decide if the adjusted title II income applies to any of the months.

a. No Overlap

If all of the months of adjusted title II income per D. above precede the first month of possible SSI eligibility, the adjusted title II income does not affect SSI for any of the months that fall in the period of retroactive title II benefits. The adjusted income could only change SSI status for the month(s) of receipt of retroactive title II benefits. In this situation, see 2. below to evaluate the possible effect on SSI for the month that the individual actually receives the retroactive title II benefits. (See Example b. in 3. below.)

b. Months with Adjusted Title II Income Overlap Months of Possible SSI Eligibility

If any month of adjusted title II income is in the period of possible SSI eligibility, the FO must determine SSI eligibility and payments for all affected months. These computations, which can be done by the system if no limitations apply (see F. below), follow all of the rules for SSI computations and differ from prior computations for the same months only because the relevant title II income is changed. (See *"Reevaluation Per E.1."* in Example a. in 3. below.)

Of course, under the RMA computation rules, a change for 1 month can affect payment in a later month (or 2 later months when a transitional computation cycle begins with the month of the change). Therefore, a change in the title II income for either of the last 2 months that fall in the period of retroactive title II benefits can change SSI payments in the months after that period.

The changed title II income generally causes underpayments for affected months.

NOTE: *It is possible that income information acquired after the title XVI offset processing caused an SSI overpayment for a month that now has adjusted title II income. The net effect of the revised determination of that month using less or no title II income can be to reduce the overpayment amount previously determined for that month (and/or 1 or more later months because of RMA rules).*

Reevaluate each of the affected months to determine the total underpayment from changes for months that fall in the period of retroactive title II benefits. Then, see 2. below to evaluate the possible effect on SSI status for the month that the SSI claimant actually received the remaining retroactive title II benefits.

2. SSI STATUS FOR THE MONTHS OF ACTUAL RECEIPT OF TITLE II RETROACTIVE BENEFITS

The adjusted title II income may or may not materially change the amount of title II income and countable income for a month the SSI claimant actually receives the remaining retroactive title II benefits. Sometimes, the amount of those benefits is *not* material because the SSI claimant is ineligible for the month of receipt (for example, because of other income, such as the title II that *was* paid when regularly due). In such cases, stop the evaluation of the effect of the adjusted title II income.

In other cases, the SSI claimant would be eligible except for the additional title II income from the retroactive benefits. Or, the claimant is eligible but additional title II income reduces SSI for a later month when the month of receipt is the budget month for the payment computation. In all cases when the evaluation is material, use the following rules to compute the amount of the retroactive title II benefits that is income for SSI purposes for the month of receipt.

a. Months with Adjusted Title II Income Overlap Months of Possible SSI Eligibility

If the first or any later month of possible SSI eligibility has regularly due title II benefits which were adjusted by subtracting some part of the authorized fee per D. above, *none* of the title II retroactive benefits that were paid is income for SSI purposes in a month that the SSI claimant/recipient actually receives retroactive benefits or in any later month. This occurs because there is no title II income remaining for months before the SSI DOE that could be counted as income for the month in which the retroactive title II benefits are received. An adjustment for the fee of as little as one cent in the title II benefits for that first month is enough to apply this rule. (See the last paragraph of Example a in 3. below for an illustration of the rule.)

b. No Overlap with Months of Possible SSI Eligibility

Sometimes, the title II benefits that are adjusted by subtracting the authorized fee per D. above are only for a month or months *before* the first month of possible SSI eligibility. This means that the rule in a. does not apply and some of the retroactive title II benefits can be income in the month actually received. Use the information per D. above to determine the retroactive benefits, if any, that are income for that month for SSI purposes, as follows. (See the last paragraph of Example b in 3. below for an illustration of these steps.)

1) Add the amount of title II income remaining after adjustment per D. above for the months prior to the first month of possible SSI eligibility.
2) Determine the actual amount of the title II retroactive benefit payment for the month of receipt.
3) Use the lesser amount of 1) and 2) above as the additional amount of type A income for the month of receipt. (Usually, the amount per 1) above is the lesser amount.) Add that amount to the title II benefits regularly due and paid that month.

CAUTION: *SEE THE NOTE IN SI 02006.205 E.2. IF RETROACTIVE TITLE II BENEFITS ARE RECEIVED IN MORE THAN 1 MONTH.*

3. EXAMPLES

Example a:

Adjustment of Title II Income Changes the Title XVI Offset

Mr. Sam Smith filed on January 4, 1984, for both SSI and title II benefits on the basis of a disability that began October 16, 1983. In July 1985, after a hearing, the ALJ determines Mr. Smith is disabled as alleged. His title II claim is processed to pay the first check, a current month accrual (CMA), September 3, 1985, and to pay the retroactive title II benefits.

In September, the FO adjudicates the SSI claim. On the basis of the alert from the CMA transaction, the FO decides that title XVI offset applies and processes the case per GN A02610.047. The result of the processing is that Mr. Smith receives SSI benefits for January through April 1984 and is ineligible thereafter because of countable title II income. The FO identifies the fact that Mr. Smith has an attorney and that retroactive title II benefits are withheld toward attorney fees. It sets a diary and sends the notice per B. above.

In January 1986, the FO learns that the authorized attorney fee amount in the title II claim is $1,628. The title II month of entitlement (MOET) is April 1984, $400 monthly, and the COLA increase is December 1984, $414 monthly. However, the retroactive benefits would have been regularly due May 1984 through August 1985, as previously used in the title XVI offset processing.

Adustment Per SI 02006.200 D.

The FO adjusts the retroactive monthly amounts of title II benefits due in order to eliminate the authorized amount of attorney fee and to determine the adjusted title II income. The FO starts with the first month that a title II benefit payment would have been regularly due.

Month	Monthly Amt. Due	Applied to Auth Amt.	Title II Income Montly Amt.	Total Retro. Income for SSI
May 1984	$400	$400	-	-
Jun 1984	$400	$400	-	-
Jul 1984	$400	$400	-	-
Aug 1984	$400	$400	-	-
Sep 1984	$400	$ 28	$372	$ 372
Oct-Dec 1984	$400	-	$400	$1,200
Jan-Aug 1985	$414	-	$414	$3,312
Total		$1,628		$4,884

The $1,628 applied to the attorney fee plus the total retroactive income for SSI purposes of $4,884 equal $6,512, the total retroactive title II benefits.

Reevaluation Per E.1.

Because no system limitation applies (see F. below), the FO enters the adjusted title II income data for May through September 1984. When the SSI system computes SSI eligibility and payments based on income, it uses zero income from January through August 1984 and $372 title II income for September 1984. Mr. Smith has no other income, his Federal LA code is "A," and there is no optional State supplement. Mr. Smith, who previously received SSI benefits for January through April 1984, is now due benefits for May through August 1984 and is ineligible thereafter. The FO reopens and revises the prior SSI determination.

January: Mr. Smith is eligible and the countable income (CI) is zero. The FBR payable of $314 was prorated to compute the payment. No change applies.

$\frac{28}{31} \times \$314 = \$283.612$ rounded to $283.62

February through April: Mr. Smith is eligible and the CI is zero. The payment amount each month was $314, and no change applies.

May through August: Mr. Smith is eligible based on zero countable income instead of being ineligible. The CI for the budget months is zero for each month, and the payment amount each month is $314. Mr. Smith is underpaid a total of $1,256 ($4 \times \$314$).

September 1984 On: Mr. Smith remains ineligible each month because his CI exceeds the FBR. No change applies.

Month	CI	FBR
September 1984	$352 ($372 - $20)	$314
October-December 1984	$380 ($400 - $20)	$314
January 1985 On	$394 ($414 - $20)	$325

Evaluation Per E.2. of Payment of Retroactive Title II Benefits

The amount of the income, if any, in the payment of retroactive title II benefits is not material because Mr. Smith is ineligible based on the CI from his continuing title II benefits. (However, if the FO had evaluated that payment, it would have determined that none of the payment is income for SSI purposes, because the rule in E.2.a. applies. The title II benefits that were regularly due for May were adjusted to zero to eliminate part of the attorney fee.)

Example b:

Adjustment of Title II Income Does Not Change the Title XVI Offset

Mr. John Green filed on January 4, 1984, for both SSI and title II benefits on the basis of a disability that began in 1981. In July 1985, after a hearing, the ALJ determines he was disabled as alleged. Mr. Green's title II claim is processed to pay the first check, a CMA of $414, September 3, 1985, and to pay the retroactive title II benefits.

In September, the FO adjudicates the SSI claim. On the basis of the alert from the CMA transaction, the FO decides that title XVI offset applies and processes the case per GN A02610.047. Mr. Green is determined to be ineligible for January 1984 on and receives no SSI benefits. The FO identifies the fact that Mr. Green has an attorney and that retroactive title II benefits are withheld toward attorney fees. It sets a diary and sends the notice per B. above.

In January 1986, the FO learns that OHA authorized an attorney fee of $3,095. The title II MOET is January 1983, at a monthly rate of $388. (Mr. Green's title II application of January 4, 1984, had retroactive effect for 12 months.) The rate increases to $400 effective December 1983 and to $414 effective December 1984. The retroactive title II benefits would have been regularly due February 1983 through August 1985.

Adjustment Per SI 02006.200 D.

The FO adjusts the retroactive monthly amounts of title II benefits due in order to eliminate the authorized amount of attorney fee and to determine the adjusted title II income. The FO starts with the first month that a title II benefit payment would have been regularly due.

Month	Monthly Amt. Due	Applied to Auth Amt.	Title II Income Montly Amt.	Total Retro. Income for SSI
Feb 1983	$388	$388	-	-
Mar 1983	$388	$388	-	
Apr 1983	$388	$388		
May 1983	$388	$388		
Jun 1983	$388	$388	-	-
Jul 1983	$388	$388	-	-
Aug 1983	$388	$388		
Sep 1983	$388	$379	$ 9	$ 9
Oct-Dec 1983	$388	-	$388	$1,164
Jan-Dec 1984	$400	-	$400	$4,800
Jan-Aug 1985	$414	-	$414	$3,312
Total		$3,095		$9,285

The $3,095 applied to the attorney fee plus the total retroactive income for SSI purposes of $9,285 equal $12,380 the total retroactive title II benefits.

Reevaluation Per E.1.

The FO realizes that the adjusted title II income precedes the first month of possible SSI eligibility, January 1984. Therefore, the adjustment does not change the prior SSI determinations for January 1984 on. See E.1.a.

Evaluation Per E.2. of Payment of Retroactive Title II Benefits

The amount of income, if any, in the payment of retroactive title II benefits is not material because Mr. Green is ineligible based on the CI of $394 ($414 - $20) from his continuing title II benefits in September 1985, the month of receipt, compared to the FBR of $325. (However, if the FO had evaluated the payment of retroactive title II benefits, E.2.b. above would have applied. The amount per E.2.b.(1) would have been a total of $1,173 ($9 for September 1983 and $1,164 for October through December 1983). And, the FO would have added $1,173 to the title II CMA of $414 in September 1985. The correct type A entry for September 1985 would be $1,587 ($414 plus $1,173).)

F. FO Payment and Notice Actions

1. ADJUSTED TITLE II INCOME CHANGES SSI DETERMINATIONS

a. Underpayment

An underpayment for a month caused by adjusting title II income can be paid only if a claimant/recipient is eligible for the month based on all factors of eligibility. The FO should assure that an underpayment applies. Note that development may have been curtailed (see GN A02610.047 H.2.). When an underpayment exists, the FO must decide if the system can process it. Whenever manual computations are required, take care to use the RMA rules, especially if months of ineligibility intervene and cause transitional computation cycles and shifting budget months.

NOTE: *In a DENIED claim for which an SSI payment was NEVER made, the underpayment caused by reopening the prior determinations should be sent to the State/County due interim assistance reimbursement (IAR) if the claimant authorized it. (The SSR would show either code N or R in the GRC field of the MPMT segment of the SSIRD (see SM 01601.466 B.12.)). If the code is N, the system would pay the claimant rather than send the payment to the State/County. Refer to SM 01901.100 B.7. in the instructions for A-OTP that explains entry of address data that would be needed to pay the State/County. As necessary refer to the regional instructions that provide the name and address of the State/County agency that corresponds to the code in the GRC field. However, if the code is R and no systems limitations apply, the system would pay the State/County that is due the first check.*

b. Reduced Overpayment

A reduced overpayment for 1 or more months caused by adjusting the title II income can occur either as the only result of the FO's action or in addition to an underpayment for 1 or more other months. The FO should enter the appropriate title II income data to the SSR so that the system will compute the correct overpayment.

2. NOTICES FOR POST-ADJUDICATIVE ADJUSTMENT

The FO should suppress the system-generated notice and manually prepare and send notices explaining the revised determination(s) and the results of underpayments and/or reduced overpayments to both the SSI recipient and the attorney (or nonattorney) representative. Also, if the adjustment of the title II income made no difference in prior SSI determinations, inform the recipient or representative of that result.

Use an SSA-L8100-U2 (Notice of Revised Determination) to notify the recipient and the attorney (or nonattorney) representative of an underpayment. Also, use an SSA-L8100-U2 to notify the recipient of a reduced overpayment when that is the only result. However, use the SSA-L8166-U2 (Supplemental Security Income Notice) to advise of a no-change situation.

In underpayments and reduced overpayments, use the following paragraphs to explain the reasons for the change.

> "*You had* monthly income which must be considered in figuring your payment as follows:
>
> *Your* social security benefits (before deductions for Medicare medical insurance premiums) of *$$$.00 for MM/YY, $$$.00 for MM/YY and/or $$$.00 for MM/YY through MM/YY.*
>
> In figuring your SSI before, we used *$$$.00 for MM/YY, $$$.00 for MM/YY and $$$.00 for MM/YY*, as *your* monthly social security in-

come. These were the amounts before deductions for Medicare premiums, if any. However, fees of *$$$.00* were approved to pay the representative in *your* social security claim. We subtract these fees from the social security income which we count."

If the SSI recipient has a representative payee, substitute for "you" and "your" as *underlined* in the paragraph, the recipient's name, "he" or "she," or "his" or "her," as appropriate.

In the second paragraph, enter the amounts and the month(s) and year(s) that apply after subtraction of the fee. In the third paragraph, enter the prior amounts of title II income and the months and years they apply. In the third paragraph, enter the amount of the authorized fees.

In underpayment check situations, use the following paragraphs to explain that the check does not affect countable liquid resources for 6 months.

> "We are sending *you* a check for *$$$.00* for *MM/YY through MM/YY in MM/YY*. We will not count the part of this money which was due for back payments as part of *your* resources for 6 months. If the money is not spent before *MM/DD/YY*, we will count any money left over as part of *your* resources. But things bought with this money may count as resources the month after they are bought. Your social security office can tell you which things count as resources. In 1986, *you* cannot get SSI if the resources we count have a value of more than $1,700."

See above for the change in "you" and "your" where *underlined* when a recipient has a representative payee. Enter the amount of the check, the month or months and year(s) for which paid, and the month of payment. Enter the date, the first day of the month 6 months later, when retained retroactive SSI benefits would count as resources.

Add any other paragraphs necessary for a complete notice (i.e., IAR paragraph, Medicaid paragraph, etc.) as appropriate per CN 00804.100 ff.

G. Title XVI Offset Processed Before Receipt of Instructions or Instructions Overlooked

FO processing of title XVI offset cases began in February 1985, prior to receipt of these instructions. Therefore, some cases which will have fees authorized and should have the title II income adjusted are not controlled and the recipients/attorneys did not receive the notice required per B. above. Note that the FO will learn of the authorized fees for these cases as explained in C.1. above. At that time, process the cases as required. Some other cases were controlled based on interim teletype instructions but the recipients/attorneys did not receive the notice. Process these cases as appropriate according to B.-F. above on receipt of these instructions. If attorney fees were withheld from the title II benefits and the authorized attorney fees are still unknown, send the notices required per B.2. only if *no* notices explaining the determinations caused by title XVI offset have been sent.

Sometimes, the FO will be unaware when it processes the title XVI offset that attorney or nonattorney fees may be authorized. When the FO learns that a fee was authorized for the title II claim per C.1. above, adjust the title II income and take necessary actions including reopening as explained in this section.

02006.205 Title II Offset - Post-Adjudicative Subtraction of Authorized Fees from Title II Benefits and Reevaluation of SSI

A. Title II Offset and Income Policy

1. TITLE II OFFSET PROCESS AND AUTHORIZED FEES INVOLVEMENT

When title II offset is used, the SSI benefits are recomputed in the offset processing using retroactive title II benefits to determine the offset amount. This is the amount of SSI which would not be payable if the title II benefits were paid when regularly due. The offset amount is subtracted from the retroactive title II benefits. In a case where a fee for an attorney is expected, 25 percent of the retroactive title II benefits remaining after offset is withheld. After payment of whatever retroactive title II benefits remain in such a case, SSA and/or a court determines the authorized amount of fees. The PC or ODO, whichever has jurisdiction, notifies the claimant and the attorney and pays the amount authorized out of the benefits previously withheld to the attorney and the remainder, if any, to the claimant. Whenever a fee for an attorney or nonattorney representative is authorized in connection with the title II claim, the authorized fee must be subtracted from the title II benefits as ordinary and necessary expenses to obtain income (see SI 00830.020). It is the adjusted title II income for months of possible SSI eligibility which can affect the results of SSI eligibility and payment determinations. (See SI 02006.200 A.1. and 2. for the definition of "attorney fees" as used in this section and for more information on withholding of title II benefits and direct payment to attorneys.)

2. POLICY REQUIREMENTS

Once an attorney or nonattorney representative fee is authorized, the title II case file contains the SSA or court determination of the fee expense. These records satisfy the requirements in SI 00830.020 B. to verify and document allowable expenses. However, in title II offset cases, the FO may be unaware of the offset processing because it occurs automatically in the system and unaware of the authorized fee because it is processed by the PC or ODO. Further, the processing of the authorization usually occurs months after the offset action and SSI adjustments to take into account the continuing title II benefits.

For title XVI offset cases, SI 02006.200 explains how to subtract the authorized fees from the title II benefits post-adjudicatively and reopen and revise the title XVI offset determination whenever necessary. Similar post-adjudicative actions are required following title II offset to adjust the title II income used to determine SSI payments and offset amounts in author-

ized fee cases. This section explains how to process title II offset cases when the FO learns that authorized fees are involved.

a. Urgent Cases

See B. below which explains how cases are expected to be identified. Of particular concern is that the FO recognize the urgency of cases identified because of a court case or other situation questioning SSA's compliance with SI 00830.020.

b. Importance of Notices

See F. below which explains the notice requirements. It is essential that both the claimant and the attorney or nonattorney representative receive notices explaining the results of the FO's action.

c. Attorney Requests for SSI Withholding

An attorney may request that any remaining unpaid attorney fee be withheld from SSI benefits which may be payable. This is not permissible. The Act provides no authority to withhold SSI benefits toward attorney fees. Any benefits which could have been withheld from the title II benefits were withheld when the title II payments were made. An attorney with unpaid fees authorized for the work on the title II claim must look to the claimant for satisfaction of the debt.

3. SUMMARY OF THE PROCESS IN TITLE II OFFSET CASES

As explained in B. below, identify title II offset cases that have an attorney or nonattorney representative and a fee involved. Whenever possible, control such a case with an FO diary and followup for notification of the authorized fee. As explained in C. below, obtain all of the title II and SSI information needed. Using the method described in D. below, adjust the retroactive title II benefits by subtracting the amount of the authorized fee to determine the corrected monthly title II income for SSI purposes. If required according to E.1., recompute the SSI which would have been paid and determine the amounts of SSI now due for any affected months in the title II offset period. If required according to E.2. below, reopen and revise SSI determinations and determine SSI status for a month of receipt of retroactive title II benefits and any later month that is affected. As necessary and explained in F. below, pay any SSI underpayments due, correct any SSI overpayments, and/or send notices.

B. Identifying and Controlling Affected Cases

1. CASES PREVIOUSLY PROCESSED THROUGH TITLE II OFFSET

Revised instructions for the PC's and ODO in GN E03940.350 require PC's and ODO to notify FO's of authorized fees for attorney and nonattorney representatives in all title II claims with SSI involvement. Beginning with implementation of those instructions, FO's will receive notifications of authorized fees. The notification by the PC's and ODO is the primary means by which FO's identify that fees are authorized in title II cases that have SSI involvement. (This also applies in title XVI offset cases; see SI 02006.200 C.1.)

In addition, the FO must process all affected cases brought to its attention by a claimant, attorney, nonattorney representative, regional office, Litigation Staff, or other SSA component. If the FO is asked about any attorney fee which was previously withheld when the title II claim was processed or any fees authorized, treat such a question or complaint in a case with SSI involvement as a notification to develop for the amount of authorized fee via SSA-2339-U3 (see GN 02606.020 ff.) and process the information according to this section. If there is disagreement with SSA's fee determination, see GN 03950.001 ff. for necessary action.

2. PENDING TITLE II OFFSET CASES WITH ATTORNEY INVOLVEMENT

As the FO processes title II awards for SSI recipients or processes simultaneously filed title II/SSI claims in which an attorney is involved, diary the SSI case and control the SSI file for consideration of authorized attorney fees. (This applies both to SSI cases in suspense because of excess countable income caused by the continuing title II benefits and SSI cases in payment status.) Set the FO diary (tickle) for 90 days following the month of expected payment of the retroactive title II benefits. Note that authorized attorney fees should always be expected when there are benefits withheld or expected to be withheld toward the fees (LPDA field in an AACT query). (See SI 02006.200 B. for the requirements in title XVI offset cases.)

a. If the FO triggers the title II claim for automated title II offset, set up the FO diary if one has not already been set and control the SSI case as part of that action.

b. In other cases processed to a title II award by the PC or ODO, the FO may be contacted to help with the title II offset computations. Ask if an amount toward attorney fees will be withheld, and, if so, set the FO diary on the SSI case if one has not been set.

c. Also, in such cases, if the FO computes the title II offset amount manually, prepare a copy of the original worksheets sent to the PC or ODO. File the copy in the SSI case file. Do the same if there is a written exchange of information about the offset amount computations with the PC or ODO. These worksheets are pertinent to the FO's evaluation of the effect of adjusted title II income on the SSI determinations later on. (See C. and E. below.)

3. DIARY MATURES

See SI 02006.200 C.3. which explains FO actions when an FO diary matures.

C. Obtaining Necessary Information

See SI 02006.200 C.1. and 2. which explain PC and ODO notices of fees and the information in them. When notified of authorized fees for attorney or nonattorney representatives in title II offset cases, the FO also needs data about the title II entitlement and processing in order to adjust the title II income for SSI purposes and reevaluate the SSI determinations.

1. ALL NEEDED DATA AVAILABLE IN SSI FILE AND QUERIES

In some instances, the FO will have all the needed data available in the SSI file and through SSI and title II queries. In these instance, see D. and E. below to adjust the title II income and reevaluate the SSI determinations.

2. DATA ON TITLE II INCOMPLETE

If the FO needs information about the title II case that is only available from a title II case file not in the FO, request the data via SSA-2339-U3 from the PC and ODO, whichever has jurisdication of the title II claim. Diary for a reply to this request, and follow up as explained in GN 02606.024 until the information is received.

D. Adjustment and Correction of Retroactive Title II Income Amounts

1. POLICY REQUIREMENT

SI 00830.020 B. requires that we subtract allowable expenses from the first and subsequent amounts of related income until the expenses are completely exhausted. This may require adjustment of income for more than 1 month.

2. SUBTRACTION OF AUTHORIZED FEES FOR ATTORNEYS AND NONATTORNEYS

To follow the policy rules in SI 00830.020 B., determine the first month that any retroactive title II benefits were regularly due and how much they would have been. Apply that amount to exhaust the amount of the authorized fee for the attorney or nonattorney. If an amount of the authorized fee remains, do the same for the second month that any title II benefits were regularly due and for as many months thereafter as necessary to exhaust the amount of the fee. This adjustment may yield a partial amount of income in the last month used. If so, the remaining amount of title II benefits for that month is income to be used as title II income *only* in the reevaluation per E. below. Once the authorized fee is eliminated, use as title II unearned income the remaining title II benefits in the amounts they were regularly due.

See E.3. below for examples of this adjustment procedure and how to record the results to simplify the reevaluation of title II offset cases.

NOTE: *The adjusted title II income used in the reevaluation per E.1. below cannot be entered in the SSR for the reason explained in F.1.*

E. Reevaluation of Title II Offset Cases

When title II offset occurs, the result is that the SSI actually paid no longer represents the net expenditures from the SSI program for the title II offset period. Instead, it is the SSI which would have been paid that remains charged to SSI program funds once title II offset is applied. The adjusted title II income per D. above can change the prior computations of the SSI which would have been paid for a month or months in the offset period, and/or it can change the SSI eligibility and payments for a month that retroactive title II benefits were actually received. Either of these changes requires reopening and revision of the prior SSI determination and payment or other action for that month, unless the recipient is ineligible for a reason other than countable income for that month.

1. SSI WHICH WOULD HAVE BEEN PAID—MONTHS IN THE TITLE II OFFSET PERIOD

The adjusted title II income may or may not change the income used to compute the SSI which would have been paid in any month in the title II offset period. To resolve this question, look at the title II offset computations and decide what months were in the offset period. Then, look at the months that have title II income adjusted per D. above and decide if these overlap the offset period.

a. No Overlap

If *none* of the months of adjusted title II income falls into the title II offset period, the adjusted income does not change the SSI which would have been paid. This occurs when the authorized attorney fee is exhausted by decreasing the title II benefits regularly due only in months before the title II offset period. These benefits are counted as income for SSI purposes only in the month(s) received. In this situation, see 2. below to evaluate the effect, if any, on SSI status for a month that the recipient received a payment of retroactive title II benefits.

b. Months of Adjusted Title II Income Overlap Title II Offset Period

Adjusted title II income in any month that is in the title II offset period can change the SSI that would have been paid in that or a later month. It is that SSI which the FO must consider, not the SSI actually paid before the offset action. Because of the offset, the SSI which would have been paid becomes the actual net expenditure from the SSI program in place of the SSI originally paid. Compute the new SSI which would have been paid using the adjusted title II income (and any other income) for each of the affected months. Then, subtract that SSI from the SSI which would have been paid as determined in the title II offset computations. Do this separately for the Federal benefit and the federally administered State supplementary payment when both of these apply. The difference is the amount underpaid for that month. (See the *"Evaluation Per E.1."* in Example a. in 3. below.)

NOTE: *It is possible that because of information received after the title II offset amount computation, an overpayment was determined for that month (see SI 02006.010). If so, it is the result of this latest determination, underpayment or reduced overpayment, that now applies for that month.*

Evaluate each of the affected months to compute the difference. Then, see 2. below to evaluate the effect, if any, on SSI status for a month that the recipient received a payment of retroactive title II benefits.

2. SSI STATUS FOR A MONTH OF RECEIPT OF RETROACTIVE TITLE II BENEFITS

The adjusted title II income may or may not materially change the amount of title II income and countable income for a month that the claimant actually receives the remaining title II retroactive benefits. Sometimes, receipt of such benefits is *not* material because the SSI claimant is ineligible that month (for example, because of countable income caused by title II benefits regularly due and received that month). In such cases, stop the evaluation of the effect of the adjusted title II income.

In other cases, the SSI claimant would be eligible except for the additional title II income from the retroactive benefits. Or, the claimant is eligible but the additional title II income reduces SSI for a later month when the month of receipt is the budget month for the

payment computation. In all cases where the evaluation is material, use the following rules to compute the amount of the retroactive title II benefits that is income for SSI purposes for the month of receipt.

a. Months with Adjusted Title II Income Overlap Title II Offset Period

If the first or any later month of the title II offset period has regularly due title II benefits which were adjusted by subtracting some part of the authorized fee per D. above, *none* of the retroactive title II benefits that were paid are income for SSI purposes in a month that the SSI claimant/recipient actually receives retroactive benefits or in any later month. This occurs because there is no title II income remaining for months before the SSI DOE that could be counted as income in the month(s) in which the retroactive title II benefits are received. An adjustment for the fee of as little as one cent in the title II benefits for that first month is enough to apply this rule. (See the next-to-last paragraph in Example a. in 3. below for an illustration of the rule.)

b. No Overlap of the Title II Offset Period

Sometimes, the title II benefits that are adjusted by subtracting the authorized fee per D. above are only for a month or months *before* the first month of the title II offset period. This means that the rule in a. does not apply and some of the retroactive title II benefits can be income in the month actually received. Use the information per D. above to determine the retroactive benefits, if any, that are income for SSI purposes, as follows: (See *"Evaluation Per E. 2."* in Example b in 3. below for an illustration of these steps.)

1) Add the amount of title II income remaining after adjustment per D. above for the months prior to the first month of the title II offset period.
2) Determine the actual amount of the title II retroactive benefit payment for the month of receipt.
3) Use the lesser amount of 1) and 2) above as the additional amount of type A income for the month of receipt. (Usually, the amount per 1) above is the lesser amount.) Add that amount to the title II benefits regularly due and paid that month.

NOTE: *Infrequently, retroactive title II benefits are paid and received in more than 1 month. For example, this can happen when the PC or ODO determines that a representative payee should not receive the retroactive benefits all at once, but rather in increments over a period of time. In such situations, modify the rules. Request from the PC or ODO a schedule or explanation of the months and amounts for payment of the retroactive benefits (past and, if any, future). Then use steps 1) - 3) above for each month, starting with the last month that retroactive benefits were or will be received. Use the actual amount of payment for the last and each prior month in turn to reduce the amount per 1) above (the total amount that is income for SSI purposes). When that amount is exhausted, stop. None of the remaining prior payments is type A income for SSI purposes. If eliminating the amount per 1) above left a balance of an actual amount for a month, that balance is not type A income for SSI purposes either. By following these rules, the retroactive benefits that are additional type A income will be counted at the END of the period of actual payment. If that period runs into the future, the FO may have to diary the SSI case file for entry of the type A income when the system would accept it and not overlay it with type A data from the MBR/SSI interface.*

3. EXAMPLES

Example a:

Adjusted Title II Income Overlap—Title II Offset Period—SSI Underpayment

In March 1985, the FO receives a copy of the authorization of attorney fees for the title II claim for Mr. Robert Johnson. The authorized amount is $487.50. Mr. Johnson had been receiving unreduced SSI with no State supplement since July 1982. He filed for DAC benefits on his father's account number effective August 1983, the month his father died. After a hearing, Mr. Johnson was found disabled since before attaining age 18. The title II CMA check was for $150 dated October 3, 1984. The title II offset action in November 1984 used a MOET of August 1983 at $150 monthly. These benefits were regularly due beginning September 1983.

Adjustment Per SI 02006.205 D.

The FO adjusts the retroactive monthly amounts of title II benefits due in order to eliminate the authorized amount of attorney fee and to determine the adjusted title II income. The FO starts with the first month that a title II benefit payment would have been regularly due.

Month	*Monthly Amt. Due*	*Applied to Auth. Amt.*	*Title II Income Montly Amt.*	*Total Retro. Income for SSI*
Sep 1983	$150	$150.00	-	
Oct 1983	$150	$150.00	-	-
Nov 1983	$150	$150.00	-	-
Dec 1983	$150	$ 37.50	$112.50	$ 112.50
Jan-Sep 1984	$150	-	$150.00	$1,350.00
Total		$487.50		$1,462.50

The $487.50 applied to the attorney fee plus the total retroactive income for SSI purposes of $1,462.50 equal $1,950.00, the total retroactive title II benefits.

Evaluation Per E.1.

Based on the first CMA payment in October, the title II offset period was September 1983 through September 1984. The title II offset amount was $1,430 ($130 for each of the months of November 1983 through September 1984). (Note that when this offset was processed, the amendment which extended the offset period by 2 months was not in effect.) Per the title II offset worksheets, the Federal SSI that would have been paid for the months of September 1983 through September 1984 if the title II had been paid when regularly due (the new FAM on the worksheet SSA-4346-U2) were:

September-October 1983:	$304.30	November-December 1983:	$174.30	January-September 1984:	$184.00

NOTE: *If an automated title II offset computation had been done, the source of these data would be the WFA entries in the WCMP segment. If optional State supplementary payments were involved, the WSA entries would also be involved.*

The FO applies E.1.B. above because the months of adjusted title II income overlap the title II offset period. Using the CMPH segment of the SSID and doing manual computations, the FO computes the SSI that is due using the changed title II income amounts because Mr. Johnson is eligible for all of the affected months.

Month	Title II Income Minus Fee	Computation of SSI Amount Due	
		New Offset Comp.	Underpayment
Sep 1983	None	No change, budget month is Jul 1983	None
Oct 1983	None	No change, budget month is Aug 1983	None
Nov 1983	None	$304.30 FBR - 0 CI for Sep $304.30 FAM 1/	$304.30 FAM -174.30 After Offset* $130.00 Due
Dec 1983	$112.50	$304.30 FBR - 0 CI for Oct $304.30 FAM 1/	$304.30 FAM -174.30 After Offset* $130.00 Due
Jan 1984	$150.00	$314.00 FBR - 0 CI for Nov $314.00 FAM 1/	$314.00 FAM -184.00 After Offset* $130.00 Due
Feb 1984	$150.00	$314.00 FBR -130.00 CI for Dec 2/ $184.00 FAM 3/	$184.00 FAM -184.00 After Offset* None Due
Mar-Sept 1984	$150.00	No change (in new FAM), CI for budget month is not changed	None

*This is the Federal SSI which would have been paid according to the manual title II offset computations on the SSA-4346-U2 (the new FAM) (or for an automated offset computation, the WFA in the WCMP segment). It is not the SSI that was paid according to the SSID.

[1] This is the same as the Federal SSI that was previously computed and paid and is in the CMPH and PMTH fields of the SSID for the month. The SSID data are reliable and can be used as a shortcut. They take into account other income, if any, including the VTR, if that applies.

[2] This CI is based on the COLA coordination rules in SI 02005.077 which require that the title II income amount for February of $150 be used because it is higher than the December amount of $112.50.

[3] This must be manually computed because the changed title II income amount for the budget month is less than the amount originally used in computing the new FAM in the manual offset computation but more than the zero title II income the system used to compute the Federal SSI amount in the CMPH field. The manual computation using the changed title II income is, in effect, a recomputation of the original new FAM using *less* title II income for the budget month. Of course, in this example, COLA coordination also applies as explained in 2 and causes CI and the the "New FAM" previously computed for offset to remain the same.

Despite the changes in the title II income, the FO cannot change the SSR's unearned income data. The SSID shows no type A entries for the months of the title II offset period, and the FO cannot change these data which explain the SSI originally paid. If an automated title II offset computation was done, the SSID will show type W entries which explain the title II offset action and cannot be changed.

The FO computes the total Federal SSI underpayment now due for the offset period.

Month	***Amount Due***
Nov 1983	$130.00
Dec 1983	$130.00
Jan 1984	$130.00
Total	$390.00

Evaluation of Title II Amount for November 1984 When Retroactive Check was Received (See E.2. Above)

The evaluation of the retroactive title II benefits received in November 1984 is material. The retroactive check was $390 after subtracting the offset amount of $1,430 and withholding $130 toward attorney fees from the total benefits of $1,950. The FO decides that the rule in E.2.a. above applies because the months with adjusted title II income overlap the title II offset period. None of the retroactive title II benefits received in November 1984 is income for SSI purposes. The type A entry of $150 for that month is correct and not changed.

FO Action

Using an A-OTP and N-TAC as explained in F.1. below, the FO must pay the total underpayment of $390 without changing the UM field entries. (Refer to F.3. below regarding FO notice actions.)

Example b:

Adjusted Title II Income Precedes Title II Offset Period and Changes SSI Status in the Month of Receipt of Retroactive Title II Benefit Check and Later Months—Reduced Overpayment

In July 1985, the FO receives a copy of the authorization of attorney fees of $1,517 for the concurrent title II/SSI claim of Ms. Brown. To process this information, the FO reviews the systems data (SSR, MBR, and PHUS) and the SSI claims file. On May 1, 1983, Ms. Brown applied for title II DIB and SSI based on disability. The ALJ found that she has been disabled since February of 1982.

In January 1985, the FO adjudicated her SSI claim first. She lives alone in her apartment since before May 1983 and supported herself with general assistance grants from the State. Since she authorized it, the first SSI check was sent to the State and paid full Federal benefits (no State supplementary payment applies) for May 1983 through January 1985.

In February 1985, ODO processed to pay the first title II check of $228 for February (CMA) benefits to be paid March 3, 1985. ODO processed the title II offset in March 1985 and paid the retroactive title II benefits remaining after offset and attorney fees withholding in a check for $1,218. Ms. Brown's title II entitlement data are:

Effective Month	***Amount***	***Would Be Regularly Due***
August 1982	$200	September 1982
December 1983	$220	January 1984
December 1984	$228	January 1985

Adjustment Per SI 02006.205 D.

The FO adjusts the retroactive amounts of title II benefits due in order to eliminate the authorized amount of attorney fee and to determine the adjusted title II income. The FO starts with the first month that a title II benefit payment would have been regularly due.

Month	***Monthly Amt. Due***	***Applied to Auth. Amt.***	***Title II Income Monthly Amt.***	***Total Retro. Income for SSI***
Sep 1982	$200	$200	-	-
Oct 1982	$200	$200	-	-
Nov 1982	$200	$200	-	-
Dec 1982	$200	$200	-	-
Jan 1983	$200	$200	-	-
Mar 1983	$200	$200	-	-

Month	Monthly Amt. Due	Applied to Auth. Amt.	Title II Income Monthly Amt.	Total Retro. Income for SSI
Apr 1983	$200	$117	$ 83	$ 83
May-Dec 1983	$200	-	$200	$1,600
Jan-Dec 1984	$220	-	$220	$2,640
Jan-Feb 1985	$228	-	$228	$ 456
Total		$1,517		$4,779

$1,517 applied to the attorney fee plus the total retroactive income for SSI purposes of $4,779 equal $6,296, the total retroactive title II benefits.

Evaluation of Overlap of Adjusted Title II with Offset Period (See E.1.)

The months of adjusted title II income that have the fee subtracted precede the title II offset period which began May 1983. Therefore, as explained in E.1.a. above, there is no overlap and the adjusted income does not affect the SSI which would have been paid (the WFA amounts in the WCMP segment) that was computed to find the offset amount.

Evaluation of Title II Amount for March 1985 when Retroactive Check was Received (See E.2.)

Subtracting the fee from retroactive title II for months before the offset period diminishes the amount of retroactive benefits in the March 1985 check that must be counted. The evaluation of the retroactive title II benefits received in March 1985 is material. The FO decides that the rules in E.2.b. above apply to correct the title II income total for March 1985. The results are:

Step 1: $83, the adjusted title II income regularly due in April 1983, which is all that remains of the benefits due before the offset period after subtracting the fee. (The $83 will be used in step 3. because it is less than the amount in step 2.)

Step 2: $1,218 second March check (PMA) for remaining retroactive benefits after title II offset for May 1983-April 1985 ($4,672) and attorney fees withheld ($406) were subtracted from the total retroactive benefits of $6,296. (The FO used a title II online PHUS query record to identify this payment (see SM 00545.002)).

Step 3:

$ 83	Title II income remaining from the check for retroactive benefits
+ 228	Regularly due title II benefits in first March check
$ 311	Total type A income for March 1985

FO Action

In July 1985, after determining the correct type A income amount of $311 for March 1985, the FO's processing of this posteligibility (PE) change for March, which is a month in the extended offset period, is to:

1. Obtain an SSID.
2. Compare the correct type A UM to the type A posted for March.
3. Transmit the correct type A if it is lower, suppress the notice, and wait for system computation.
4. Obtain a new SSID afterwards that shows the true overpayment/underpayment.
5. Prepare and send the required notice.

The details which follow explain what the FO learns from the SSID'S before and after it enters the correct type A income. To summarize, the results of the systems computations using the corrected income are that Ms. Brown is eligible for SSI for March 1985, she is overpaid less, and the FO must revise prior determinations for March and May.

The FO notes from the first SSID that $1,422 type A income is posted for March. (This is the total of $228, regular check, plus $1,194, retroactive benefits in the check for $1,218.) This caused the system to compute that Ms. Brown is ineligible for March and has a true overpayment of $117. This is the amount of SSI which would have been paid (shown in the WCMP segment as the WFA amount) and was determined in the automated title II offset computation. The $117 is the amount charged to SSI funds for March once the title II offset was applied.Then, because of March ineligibility, the system used a transitional payment computation (budget month "O") to recompute the payment for April and found there was no true overpayment. Although the actual payment for April was $325, the title II Federal offset amount (in the WCMP segment, the WFO amount) was $208, and the net amount charged to SSI funds for April after offset is $117 (WFA). In the transitional computation, the system computed that $117 should actually be paid (the FAM in the CMPH segment) and that the payments for April balance. The effects of the $1,422 type A posting for March by the interface reflected in the CCM of April can be summarized as follows: (the data are on the first SSID)

SSI Month 1985	Actual Paid (PMTH-FMA)	Should Receive (CMPH-FAM)	Amount From SSI Funds (WCMP-WFA)	True Overpayment
March	$325	0	$117	$117
April	325	117	117	0
			Total:	$117

The system computed the May payment in the CCM of May, after the computations explained for the CCM of April. Using the budget month (code "1") of April, the system computed a payment of $117.

Using the first SSID, the FO determines that the WIN code is "F" and the UMIH field shows a zero (O) amount of type W UM posted for March and April 1985, the last 2 months of the extended offset period. The FO decides to transmit the PE change and the $311 type A UM it determined is correct for March, as explained above. (See the NOTE in F.1. below explaining the system and PE changes.) The FO suppresses the notice and lets the system compute the effect of the PE change on the computations for March and later months and the true overpayment/underpayment. This FO action is taken in July after the CCM of August 1985 begins.

The system computes that Ms. Brown was correctly paid $325 for both March and April and is not overpaid. However, the system computes that she is overpaid $83 for May. The new SSID obtained by the FO after the systems action shows the new computations and the overpayment of $83 for May. The FO reopens its prior overpayment determination for March and prepares the notice to explain the adjustment of the title II income for March and the lesser overpayment for May, as explained in F.3. below.

The effects in the CCM of August of the corrected type A (UM) income posting for March entered by the FO can be summarized as follows: (changes underlined) (the data are on the new SSID)

SSI Month 1985	Actual Paid (PMTH-FMA)	Should Receive (CMPH-FAM)	Amount From SSI Funds (WCMP-WFA)	True Overpayment
March	$325	$325	$117	0
April	325	325	117	0
May	117	34*	N/A	83
June	117	117	N/A	0
July	117	117	N/A	0
August	117	117	N/A	0
			Total:	$83

*The payment computation for May 1985 is:

$325	FBR
- 291	CI for Budget Month of March ($311 - $20)
$ 34	Due

F. FO Payment and Notice Actions

1. UNDERPAYMENT

Verify that an underpayment caused by adjusting title II income exists because the recipient *is* eligible based on all factors for the underpaid months. When the adjusted title II income causes an underpayment per *E.1.* above, the FO will be unable to change the data in the system and have it pay the additional benefits. The unearned income data in the SSR UMIH segment will generally not include type A UM entries for the months in the title II offset period. (The data may include type A UM entries if dual entitlement is involved or type W UM entries if the title II offset computation was automated.) No change in the entries that the FO could make would lead to payment of the correct underpayment. Should the FO attempt to enter type A UM entries based on the title II income determined per D. above, the system would compute an overpayment rather than an underpayment for months in the title II offset period. Instead, the FO should manually compute the underpayment and use the A-OTP facility to make payment. However, the FO can enter adjusted title II income for a month of receipt of retroactive title II when determined per *E.2.* above as type A UM entries for months after the title II offset period to compute and pay underpayments (or correct overpayments) through the system.

Refer to SM 01901.000 ff. for instructions on A-OTP. Refer to SM 01310.205 which provides instructions for use of the N TAC which is used to resolve erroneous systems-computed overpayments. When paying an underpayment by A-OTP, the FO should enter N TAC data in the amount of the underpayment to avoid having the A-OTP increase any overpayment amount in the system and cause an alert.

NOTE: *The system can also be used to help the FO when the retroactive title II benefits are paid in 1 of the last 2 months of the extended offset period and the type A UM entry must be corrected because of diminished retroactive benefits that count per the evaluation explained in E.2. above. See Example b. in E.3. above.*

The automated system can compute the true overpayment/underpayment from PE changes in the offset period following an automated title II offset computation done after January 15, 1984, with some exceptions (see SM 01320.600). The WIN code indicates the necessary action for correctly reviewing and process-

ing PE events when title II offset applied (see SM 01320.605). If the WIN code is "F," "I," or "R," the systems computations are always correct. This includes those for PE changes in type A UM for months, such as the last 2 months of an extended offset period, that have a zero (O) type W UM amount posted.

2. REDUCED OVERPAYMENT

A reduced overpayment for 1 or more months determined after adjusting title II income can occur either as the only result or in addition to an underpayment for another month or months. The FO should transmit appropriate data to the SSR to correct the recorded overpayment as explained in 1. above.

3. NOTICES

If the result of the FO's action is an underpayment or reduced overpayment, send manually prepared notices explaining the action and results to both the SSI recipient and the attorney (or nonattorney) representative.

NOTE: *In those instances that only title II income adjusted per E.2. is involved and transmitted by the FO, no system limitations apply as explained in l. above, and payment will be made by the system, suppress the systems-generated notice.*

Also, if the adjustment of the title II income made no difference and neither caused an underpayment nor changed an overpayment amount, inform the recipient and representative of the result and the right to request reconsideration.

See SI 02006.200 F.2. for instructions on which notices and paragraphs to use.

02006.210 Field Office Fee Adjustment Procedures and Worksheets

A. Introduction

This section provides step-by-step procedures and worksheets to assist field offices (FO's) in subtracting the authorized fees for representatives (attorneys and nonattorneys) from retroactive title II benefits in offset cases, as required by SI 02006.200 and SI 02006.205. See subsection B. for the chart of step-by-step procedures and subsection C. through F. for the exhibits of worksheets SSA-2894 and SSA-2877 and charts of completion instructions and notes. The worksheets SSA-2894 and SSA-2877 (see sections D. and F. below) should be locally reproduced because they are not published and stocked in the central office.

B. Development of Fee Adjustment

STEP	*ACTION*
1	Is the fee determined and known at the time you are ready to process offset? yes- trigger title XVI or compute title II offset using the adjusted title II income determined as explained in step 4, below. Take no other actions or steps. no- trigger or compute offset using the reported title II amounts without regard to a fee. Tickle the case for 90 days pending receipt of the fee determination notice (SSA-1560A-U5, HA-L530-U5, or others). Follow up after 90 days per SI 02006.200 C.3. Proceed to step 2 when a copy of the notice or information is received.
2	Upon receipt of a fee determination notice or when the claimant/representative notifies you that a fee has been determined, use the notice as the source of the following information (per SI 02006.200 C.2.): • type of claim; • name and address of attorney representative; • amount of the authorized fee; • the title II claim number; • claimant's Social Security number; and • name of the person(s) obligated for the fee. NEVER USE THE FACT OF WITHHOLDING OR THE AMOUNT WITHHELD AS THE BASIS FOR THIS ACTION. Evaluate this information as explained in step 3.

STEP	ACTION
3	Per SI 02006.200 C.1., examine the notice for the type of claim— either written out (e.g., "Supplemental Security Income and Disability Insurance Claims") or coded (e.g., "SSDC"). • Verify it is either a concurrent SSI/title II or solely title II claim. The amount of the fee to be subtracted is the **entire** amount entered in the notice. Ignore amounts of title II withheld (shown in the LPDA field of the MBR), if any; amounts in fee petitions; etc. If an additional or supplemental fee is authorized in another notice, subtract the total of the fees in the two notices. • However, if the type is **exclusively SSI** (written out or coded "SSID," "SIA,"or "SIB"), do not subtract the fee; it is for services rendered for an SSI claim only. The person or persons obligated for this fee are only the claimant or claimants named in the notice. Ignore withholding of title II from others who are not named (e.g., auxiliaries), they are not obligated. (If an issue is raised, refer to SI 02006.200 C.1.) Proceed to step 4.
4	a. Obtain SSI, MBR, and PHUS queries as required to obtain the rest of the information needed. b. Complete SSA-2894, "Offset Case Authorized Fee Worksheet" (Exhibit in D.) to subtract the entire fee from the title II benefits beginning with the first month they were regularly due (SI 02006.200 D. or SI 02006.205 D.).
5	Is this a title II or title XVI offset case? • If title II, proceed to step 6. SI 02006.205 E. applies. • If title XVI, proceed to step 12. SI 02006.200 E. applies.
6	Determine whether the amounts of title II income remaining (column D on the SSA-2894) are different from any of the type W amounts posted to the supplemental security record for the months of the offset period. If yes, proceed to step 7. If no, proceed to step 11.
7	Determine which are the affected months. These are: • Each month in the offset period that, after subtraction (as shown in column D on the SSA-2894) has a remaining title II amount of zero or less than the type W posted, and • The following 2 months, if the unchanged type W amount for them did **not,** in the original title II offset, yield countable income (CI) that stopped payment computation (e.g., for the month of December 1987, a Federal benefit rate of $340 but CI of $500 based on type W of $520 with no State supplementary payment (SSP) involved).

STEP	ACTION
8	Complete SSA-2877, Adjusted Title II Income and Title II Offset Worksheet, (Exhibit in F.) for the affected months. This worksheet can be used to simultaneously compute "new" FAM's and SAM's for the affected months, similar to the SSA-4346-U2, and also the difference between these amounts and the previously computed amounts that were based on the original type W income. The previously computed amounts are the WFA and WSA on the SSR in automated title II offset cases and the new FAM and new SAM in manual (SSA-4346-U2) computa-tion cases. (See SI 02006.205 F.1. which explains why the title II type A or W postings cannot be changed and systems computations cannot be used.) The total underpayments (Federal and SSP) manually computed in section F. of the SSA-2877, should be processed as explained in step 9. If preferred when computation of the countable income is complex, use SSA-4968 (SSI RMA Payment Worksheet) in place of columns C. through E.6. of the SSA-2877. Remember to use the adjusted title II income less the fee. Keep in mind that the COLA coordination rules for January and February are in effect beginning with January 1984 (see SI 02005.076-SI 02005.078).
9	Issue an A-OTP for the total underpayment amount. Transmit an N TAC code in the CO field for the same amount as the A-OTP. See SI 02006.205 E.1.b., if a reduced overpayment is involved. Combine these actions with any required per step 10. Also, prepare notices per SI 02006.205 F.3.
10	If necessary, adjust the type A UM for the month(s) retroactive title II benefits were received and posted to the SSR to the regularly due title II income amount since there is no remaining title II from before the offset period that can be counted as income. When this adjustment and transmission of changed type A are necessary, process any underpay-ment or correction of an overpayment amount for those months along with the actions taken per step 9 for the prior months. STOP HERE
11	a. You are here from step 6 because you have a title II offset case in which the amounts of title II income remaining on the SSA-2894 are the same as the type W UM amounts posted to the SSR for the months of the offset period. Since the amounts are the same, there is no change in the title II offset computations. Make sure this is so before proceeding. b. Go to step 15b.

STEP	ACTION
12	You are at this step because you have determined that title XVI offset was initially applied. If this is incorrect, return to step 5. If this is a title XVI offset case, determine whether the amounts of title II income remaining (column D on the SSA-2894) are different from any of the type G amounts posted to the SSR for the months of the offset period. • If no, proceed to step 15. • If yes, proceed to step 13.
13	CAUTION: In an initially denied case, in which an underpayment could be due, all development which had previously been deferred must be undertaken prior to further action. If GR reimbursement forms are in file, any underpayment is the first payment that should be paid to the State. (See SI 02006.200 F.1.) Determine whether the system could compute and release an under payment caused by the change in type G UM to the title II income remaining amounts shown in column D on the SSA-2894: • If yes, transmit the changed type G UM amounts and suppress the notice. • If no, compute manually to pay via A-OTP. • In either case, combine the action with any required per step 14. Also prepare notices per SI 02006.200 F.2.
14	If necessary, adjust the type A UM for the month(s) retroactive title II benefits were received which is shown on the SSR to the regularly due title II income amount, since there is no remaining title II from before the offset period that can be counted as income. When this adjustment and transmission of changed type A are necessary, process this data and any underpayment or correction of an overpayment along with the actions taken per step 13. STOP HERE

STEP	ACTION
15	a. You are at this step because you have a title XVI offset case in which the amounts of title II income remaining on the SSA-2894 are the same as the type G UM amounts posted to the SSR for the months of the offset period. Since the amounts are the same, there is no change in the title XVI offset computations. Make sure this is so before proceeding to b. b. The type A UM for the month of receipt of the retroactive (retro.) title II check posted to the system must be adjusted if the change would make a difference in SSI determinations: • The change makes **no** difference if the regularly due title II received each month is enough to cause **ineligibility** or the individual is ineligible in the month(s) of receipt of the retro. title II for other reasons. In this case, send a notice of no change per SI 02006.200 F. • Otherwise, use the total retro. remaining for months before SSI DOE (column E. of the SSA-2894) as the retro. amount (PMA) to add to the regularly due title II (CMA) to determine the correct type A UM amount for the month of receipt. CAUTION: If retro. title II was received in more than 1 month, see the Note in SI 02006.205 E.2.b. Transmit the changed type A UM, suppress the systems notice, and prepare the notices required per SI 02006.200 F.2. STOP HERE

C. Operating Procedures — Completion of the SSA-2894

STEP	ACTION
1	Enter the suggested data in sections I. and II. • Identify a month by using its numerical abbreviation, e.g., for January 1988, use "1/88." Refer to the MBR query for the title II entitlement data for item 1. Enter the effective month and amount of each MBP. • For item 2, the entry is the month after the original MOET. • For items 3 and 4, if the first title II payments were in 1984 or later, use the PHUS query to identify the dates and amounts. If the data are essential for the first payments before 1984, the data may have to be obtained from the title II claims file. • For item 5, refer to the notice or other proof of the fee determination for the fee amount and the name and address of the representative. • For items 6-10, refer to the appropriate fields of the SSR query. To decide if development was curtailed in a denial, refer to the SSI claims file.

STEP	ACTION
2	Section III. provides lines to list separately only 18 months. The months that should be listed separately are those where part of the authorized fee is subtracted from the title II. Other months should be grouped together if the amount of title II regularly due is the same (the amount entered in column B). If the lines do not suffice despite this consolidation, complete the listing on the back of the worksheet after entering "Section III. (continued)." • Begin with the first month title II was regularly due (item 2 of section I.) or the SSI date of eligibility (item 6 of section II.) whichever is earlier. • For column B, enter the amount based on the data in item 1 of section I., keeping in mind that MBP's are regularly due the month after they are effective. • For column C., enter the amount in column B. or the remaining amount of the authorized fee for the last month part of the fee is subtracted. • For column D., enter the difference of column B. minus column C. • Complete column E. **only for months before the SSI date of eligibility** (item 6. in section II.). Enter the amount in column C. or, for an entry of a group of months, the amount in column C. times the number of months. • Total the entries in column C. and check to make sure this total is the same as the authorized fee in item 5. of section I. If it isn't, correct section III. as necessary. • Total the entries, if any, in column E. and enter the result. • Answer the questions in F. by checking "Yes" or "No."

D. Exhibit—SSA-2894

OFFSET CASE AUTHORIZED FEE WORKSHEET

OFFICE	INDIVIDUAL(S) OBLIGATED	SSN
		TITLE II CAN

I. TITLE II INFORMATION

1. Month of Entitlement:
   _____ MBP $_____ _____ MBP $_____
   _____ MBP $_____ _____ MBP $_____
   _____ MBP $_____ _____ MBP $_____
2. First Month Due Payment: _____
3. Month CMA Received: _____ $_____
4. Month(s) Retro. Received _____ $_____
5. Authorized Fee: $_____
   TO:► _____
   Rep. Name _____
   and Address _____

II. SSI INFORMATION

6. Date of Eligibility (DOE): _____
7. Circle, Offset Used: II XVI
   If II: Automated Manual
8. Offset Period: Begins _____
   Ends _____
9. SSI first Paid: _____ $_____
   or Denied—NO _____
10. If denied, circle if:

    IAR Agreement OR Curtailed Development

III. BELOW, DRAW A LINE AFTER MONTHS *(If any)* WITH TITLE II DUE THAT PRECEDE THE SSI DOE.

A. MONTHS—BEGIN WITH EARLIER OF 2. OR 6.	B. AMOUNT OF TITLE II REGULARLY DUE	C. AMOUNT OF 5. (AUTH. FEE) SUBTRACTED THIS MONTH	D. AMOUNT OF TITLE II INCOME REMAINING	E. TOTAL RETRO. REMAINING, ONLY FOR MONTHS BEFORE SSI DOE, IF ANY
TOTALS ➡				

F. TITLE II INCOME FOR MONTH(S) OF RECEIPT OF RETRO. TITLE II:

Is any fee subtracted from a month in offset period?

☐ YES—Use zero as the Title II income from retro. check(s)

☐ NO—Use the total retro. remaining for months before the SSI DOE from column E as the Title II income from retro. check(s)

OFFICE EMPLOYEE NAME	TITLE	DATE	CHECK for Title II offset Change (see SSA-2877) ☐

Form SSA-2894 (9-87)

E. Operating Procedures — Notes for Filling Out SSA-2877

COLUMN	*NOTE*
B	From column D of SSA-2894.
C	If the Federal living arrangement is B and there is no corresponding J income in the UMIH segment of the SSID (usually a record not in RIC G), include the VTR. If column B equals zero, then column C equals the total of the UMC and the ENC from the CMPH segment of the SSID. If column B equals the type W income in the UMIH segment of the SSID for the same month, then column C equals the total of the WUM and the WEN from the WCMP segment of the SSID. If column B is greater than zero but less than the corresponding type W entry in the UMIH segment of the SSID, then column C equals the total of the UMC and the ENC from the CMPH segment of the SSID **plus** the total* from column B. *Determine whether any or all of the $20 general income exclusion can be used to reduce the total in column B.
X	The Federal payment amount for Federal living arrangement A.
D1	If ineligible, enter zero in the FAM (column E3).
D2	If ineligible, enter zero in the SAM (column E6).
D3	If eligible, enter the budget month (BM). If column B equals zero then the BM is the same as the BM in the CMPH segment of the SSID.
E1	If the Federal living arrangement is D, enter $25 in column E1. If there is no OS for this variation, enter zero in column E6.

COLUMN	NOTE
E2	If the amount is available for the BM in column C, enter the amount from column C. Otherwise, obtain it from the SSID. Consider COLA coordination (SI 02005.076 ff.) for the months of January and February.
E3	Enter the remainder of column E1 minus column E2.
E5	Enter the remainder, if any, of column E2 minus column E1.
E6	Enter the remainder of column E4 minus column E5.
F1	Enter the amount from column E3 unless proration is involved. If proration applies and column B equals zero, then the FAM equals the FAM in the CMPH segment of the SSID. Otherwise, determine the prorated amount per SI 02005.065.
F2	If offset is automated, enter the WFA from the WCMP segment of the SSID. If offset is manual, enter the new FAM from the SSA-4346 offset worksheet.
F3	Enter the remainder of column F1 minus column F2.
F4	Enter the amount from column E6 unless proration is involved. If proration applies and column B equals zero, then the SAM equals the SAM in the CMPH segment of the SSID. Otherwise, determine the prorated amount per SI 02005.065.
F5	If offset is automated, enter the WSA from the WCMP segment of the SSID. If offset is manual, enter the new SAM from the SSA-4346 offset worksheet.

COLUMN	NOTE
F6	Enter the remainder of column F4 minus column F5.

F. Exhibit—SSA-2877

ADJUSTED TITLE II INCOME AND TITLE II OFFSET WORKSHEET

A.	B.	C.	X.	D1.	D2.	D3.		E1.	E2.	E3.	E4.	E5.	E6.	F1.	F2.	F3.	F4.	F5.	F6.
AFFECTED MONTHS	ADJUSTED TITLE II INCOME	THIS MONTH'S COUNTABLE INCOME	THIS MONTH FBR	FED. ELIG.	STATE ELIG.	BUDGET MONTH DATE	NO.	THIS MONTH FBR	NEW BM CI	FAM	THIS MONTH SSP	NEW BM EXCESS	SAM	FAM	NEW FAM	SSI FED U/P	SAM	NEW SAM	SSI SSP U/P
																	TOTALS		

Form SSA-2877 (9-87)

* U.S. GOVERNMENT PRINTING OFFICE:1989 241-323/05050